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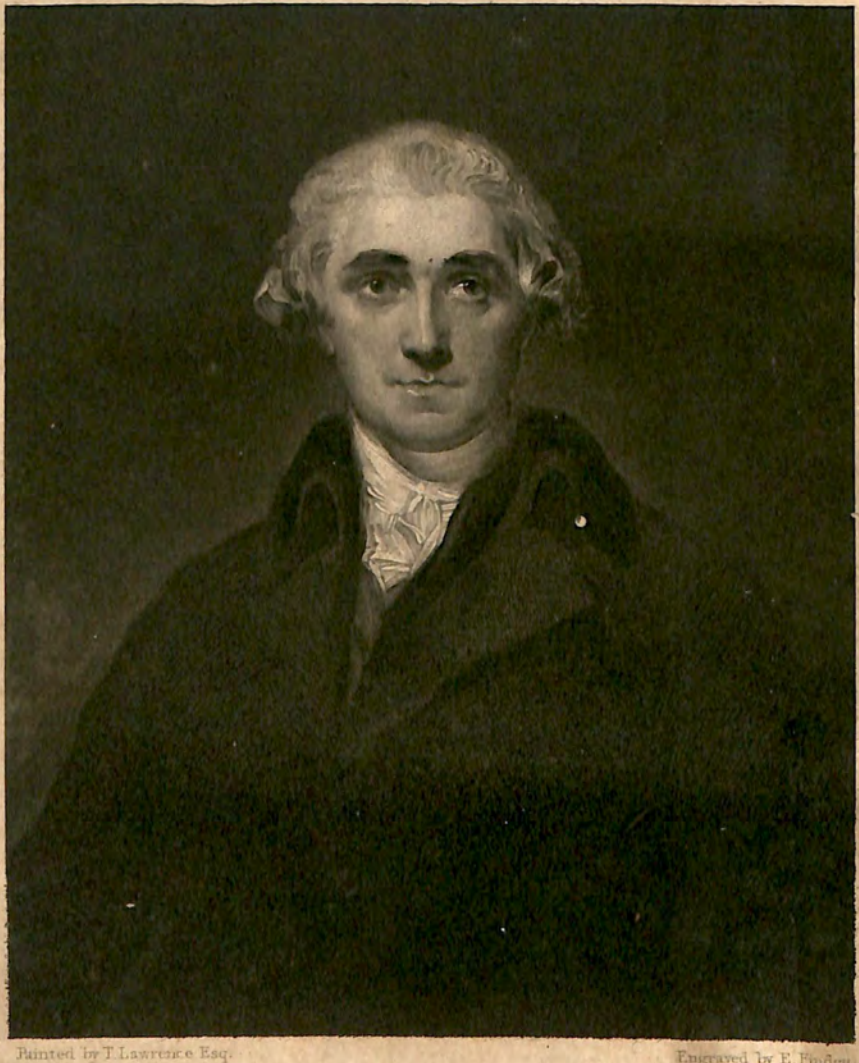

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SIR JOHN SCOTT,

Attorney General, afterwards

LORD ELDON.

London, Published by John Murray, Albemarle Street, 1844.

THE

PUBLIC AND PRIVATE

LIFE

OF

LORD CHANCELLOR ELDON,

WITH

SELECTIONS FROM HIS CORRESPONDENCE.

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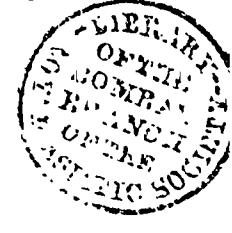
ac

BY

HORACE TWISS, ESQ.

ONE OF HER MAJESTY'S COUNSEL.



IN THREE VOLUMES.

VOL. I.

"Vim temperatam Dî quoque provehunt
In majus."

HOR. *Carm.* lib. iii. ode 4.

The force that wisdom tempers, Heaven promotes.

SECOND EDITION.

LONDON:
JOHN MURRAY, ALBEMARLE STREET.
1844.

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The following Biography

OF

JOHN, FIRST EARL OF ELDON,

LORD HIGH CHANCELLOR OF GREAT BRITAIN,

IS INDEBTED, FOR THE MOST VALUABLE OF ITS MATERIALS,

TO THE AFFECTIONATE LABOURS OF

HIS GRANDSON,

JOHN, SECOND EARL OF ELDON,

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PREFACE

TO

THE SECOND EDITION.

The rapid sale of the first edition having made it necessary to prepare for another in less than a month from the original publication, there has been so little time for the detection of those errors which the author cannot hope to have escaped, that the present impression is little more than a reprint of the former. With the exception of some verbal emendations, the only new matter will be found in the two corrections at p. 402. of Vol. I., and at p. 10. of Vol. III.;—and in the annotations, at pp. 162. and 197. of Vol. I., — at p. 554. of Vol. II., — and, between brackets, at p. 180. of Vol. III.

August 1844.

PREFACE

TO

THE FIRST EDITION.

A BIOGRAPHY of the Lord Chancellor Eldon can want no apology, except for the deficiencies of the writer.

In such a memoir, a total absence of political feeling would have been hardly attainable, and perhaps not desirable. The life of any modern statesman, if written without a general sympathy in his political views, must have a coldness and flatness, which no tone of impartiality could redeem. The writer of these pages, therefore, though he presumes, in some important instances, — even in one so momentous as that of the Catholic question, — to dissent from Lord Eldon's opinions, has not affected an air of indifference as to those stirring questions of politics in which Lord Eldon was mixed, and still less as to those party attacks of which he was individually the object. Where the course of the work has led the author into contact with such subjects, he has thought it best to deal with them frankly. — He has ventured to introduce some general notices, of several persons connected with Lord Eldon: as well as of those eminent men, now no more, who, at any period of his Chancellorship, were leaders

of the Administration in either House of Parliament, or Judges of any branch of the English Court of Chancery. But no one now living is among the subjects of these outlines.

From unavoidable circumstances, publication has been delayed beyond the time at first intended; but, as the reputation of Lord Eldon is not likely to be a transient one, it is hoped that the pains, with which these memoirs have been collected and sifted, will be found to compensate the lateness of their appearance.

So copious has been the contribution of materials from the relatives and friends of Lord Eldon, and, above all, from his grandson and successor, the present Earl, that one of the chief difficulties of the work has been to decide what original letters and papers, among several thousands, should be preferred for publication, as best suited to unite the objects of illustrating Lord Eldon's character and of gratifying the interest which attaches to his name. In the hope of accomplishing this double purpose, it has been thought expedient to omit all the merely technical matters in which he was engaged, whether as a lawyer or as a statesman, and to notice even his parliamentary speeches in only a cursory manner, except where they have some direct bearing upon his fame or fortune, or where the surviving and strong interest of the subject seems to make it important that his opinions and authority should be kept before the public.

The principal sources, then, of this biography, are:

First, The letters of Lord Eldon himself to his brother Lord Stowell, to his daughter Lady Frances Bankes, to his grandson the present Earl, to some others of his relations and friends, and to some of his political colleagues.

Secondly, A collection of letters to Lord Chancellor Eldon, from George III.; from George IV., as Prince of Wales, as Prince Regent, and as King; from Queen Charlotte; from Queen Caroline, when Princess of Wales; and from others of the Royal Family.

Thirdly, A manuscript book of anecdotes and observations noted down by Lord Eldon himself, in his latter years, for his grandson's use and amusement.

Fourthly, Some miscellaneous manuscripts, chiefly in his own hand-writing, and various memoranda, — all communicated by the present Earl.

Fifthly, Notes made by Mr. Farrer the Master in Chancery, of conversations with Lord Eldon shortly before his death: — and contributions from Mrs. and Miss Forster (his brother Henry's daughter and grand-daughter), who spent parts of several years with him toward the close of his life, and carefully collected all the family traditions relating to him.

Lastly, Those four spirited and interesting articles, published in the *Law Magazine*, Nos. 41. to 44., the able author of which was supplied with much authentic information upon points of fact by the late

Mr. Pensam, many years one of Lord Eldon's official secretaries and confidential friends.

In the review of Lord Eldon's judicial character, the writer of this biography has had the aid of some well digested references lent to him by Mr. Wright, and of some valuable suggestions from Mr. Lee, both eminent members of the Chancery Bar: and he has derived very important benefit from the accurate official information, kindly afforded to him by Mr. Colville and Mr. Bedwell of the Register Office, and Mr. Smith of the House of Lords.

For the letters of Lord Eldon to Lord Stowell, he has to thank his old friend Mr. Chisholme, one of Lord Stowell's executors: and he is indebted to several other gentlemen for other contributions, less extensive, but likely, he trusts, to advance the acceptation of the work which he now ventures to lay before the public.

June 1844.

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LIFE

OF

LORD CHANCELLOR ELDON.

CHAPTER I.

TO 1760.

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To have risen, without advantage of birth, property, or connection, from comparatively humble station to the summits of rank and wealth, has been the fortune of many an ambitious man. But the interest attaching to the lives of those who have achieved greatness so far and no further, is only that of individual adventure; their history, though public occurrences chance to be involved in it, is not connected with the formation and direction of national opinion and feeling. Lord Eldon's memory is linked with higher associations and more enduring results. His powers were of that rare and standard order, to which, in times of danger and doubt, the minds of men make fast as to a mooring, and from which a whole generation is fain to take its impress. He had entered public life early

in that eventful period which Rousseau described as the coming age of revolutions. America had thrown off the allegiance of her youth. The sacrifices of principle, which the coalition of Lord North and Mr. Fox was considered to involve, had excited, among the English people, a general distrust of party politicians. A century had elapsed since the transcendental questions of civil government had been mooted in Europe, except by way of speculative inquiry; so that political discussion had the relish of novelty in addition to its other attractions. Meanwhile, the scandals of the court and aristocracy in France had been laid bare, first by the attacks of the wits and philosophers, and afterwards by the coarser onslaught of the Jacobins; and the Revolution had there exploded in the destruction of the monarchy and of the monarch. The abuses, proved in France, were then assumed to have equal prevalence in England; the cases, and the fitting remedies for them, were declared by English demagogues to be parallel; and multitudes of our countrymen, some discontented, some corrupt, some only thoughtless, joined in a common cry for the proscription of existing institutions. The demand was difficult to check; for it had all the strength which could be brought by numbers, overbearing, intolerant, and foul-mouthed; and, while it affected to regulate itself by abstract reason, it practically took that rough road to men's understandings, which leads through their fears. It was in those fierce heats that the strong metal of Scott was fashioned and hardened, and wrought to its high temper. The wars waged by Mr. Pitt with France, first in her republican, and afterwards in her imperial state, did much to avert

immediate danger; but when, after the pacification of Europe, the dangerous dispositions which had for a time been absorbed or overlaid by foreign hostility, were again let loose upon the constitution of England, then a fresh rally and a fresh enlistment became necessary for its defence; and then the influence of Lord Eldon's character, lessons, and example, was felt upon the public mind. He set himself boldly to quench the incendiary lights of the new philosophy; and applying his great capacity and accurate learning to uphold, by argument and recorded experience, that constitution which modern sciolists had sought to disparage and repudiate, he satisfied its natural friends that in it they had something vastly more valuable than a mere name of antiquity to fight for: while his unimpeachable integrity and unbending firmness gave them full assurance, that so high a cause lacked not a leader worthy of and equal to it. The force which has but too often remained a *vis inertiæ*, that of the classes which include and represent the property, the regular industry, and the established religion of England, was thus at length awakened, and developed, and inspirited to resist the advance of democracy; and Lord Eldon, without the aid of intrigues, or of any other appliances than his own ability, reputation, and position, found himself at the head of a party, great in numbers and still greater in character; not a frantic multitude, like the ignorant and intolerant insurgents that rolled in dusty whirlwinds after Gordon or Sacheverel, but a calm, coherent, stedfast body, comprehending the highest and most respectable ranks—an immense majority of the nobility, the clergy, and the landed

gentry—the superior classes of the mercantile, if not of the manufacturing interests—the generality of the liberal professions,—and many of those men of reflection and education who, though they had looked with hope upon the first experiments of French democracy, were able, now that time had blown aside the hot reek of that revolution, to descry the necessity of cooler counsels, and to deduce a warning from the downward progress of events. Wielding this powerful combination of forces, Lord Eldon was enabled, through many a long year of untiring energy, to break the successive tides of revolution,—until at length, in 1831, the ill-starred conjunction, of the royal with the democratic will, gave that sinister heave to the constitution, which has wrenched it from its frame, and converted its administration from a systematic government, to a succession of conflicts, each doubtful in its issue, and each more dangerous than its antecedent. But, in whatever shape and at whatever season the consequences of that dislocation may come upon us, those who honour the memory of Lord Eldon will have the pride of reflecting, that, to the latest practicable moment, he stood up for the ancient safeguards of the crown and the people; and that when at length the constitution was laid low—when the seal of its doom had been extorted by duress from the Peers, and the House of Commons was levelled to a national convention—even then, at an age surpassing the common limits of mortality, that venerable man refused to despair of his country, and set the brave example of a reaction which has raised up one chance more to England, for regulating the liberties of her people, and restoring the security of her state.

The family of Lord Chancellor Eldon appears to have branched from the stock of the Scotts of Balweary. And accordingly, soon after his elevation to the Peerage, the arms of the Scotts of Balweary*, with certain honourable augmentations, were granted and confirmed to the descendants of his father.

In the *Peerage of Scotland*, by Sir Robert Douglas of Glenbervie, continued by Mr. Wood, is the following passage respecting the name of Scott †:

"There were two principal houses of the name of Scott in Scotland; that of Buccleuch in the south and west, and that of Balweary in Fife, each of which has branched into a number of families of consequence. These two houses do not appear to have been any way connected, their armorial bearings possessing no similarity."

The author goes on to observe, that the name of Scott occurs frequently in records of early date, and particularly in one as ancient as the year 1124; and refers, for an account of the Scotts of Balweary, to Sir Robert Douglas's *Baronage of Scotland*. In this last-named work ‡, Sir Robert Douglas begins his account of "Scot of Balweary, now represented by Sir William Scot of Ancrum," by observing, that "there is no family in Scotland of this surname can justly claim a higher antiquity than that of Balwearie:" and he proceeds to deduce the descent of this family to his own time, from their direct ancestor, Sir Michael Scott, ("a man of property and power" in the County

* NOTE BY THE PRESENT EARL OF ELDON.—These arms, borne by Lord Eldon and his family before his elevation to the peerage, are, argent, three lions' heads, erased, gules; and for crest, a lion's head, erased, gules.

† *Douglas's Peerage of Scotland.* Edin. 1813, vol. i. p. 245.

‡ *Douglas's Baronage of Scotland.* Edin. 1798, p. 302.

of Fife towards the close of the twelfth century,) through his great grandson, Sir Michael Scott, whose mother was the heiress of Sir Richard Balweary.

This last-mentioned Sir Michael Scott is no less a person than the wizard, whose awful grave has been unveiled to later times by the spell of a more legitimate magician. The notes to *The Lay of the Last Minstrel* inform us, that

"Sir Michael Scott of Balwearie flourished during the 13th century, and was one of the ambassadors sent to bring the Maid of Norway to Scotland upon the death of Alexander III. He was a man of much learning, chiefly acquired in foreign countries. He wrote a commentary upon Aristotle, printed at Venice in 1496; and several treatises upon natural philosophy, from which he appears to have been addicted to the abstruse studies of judicial astrology, alchymy, physiognomy, and chiromancy. Hence he passed among his contemporaries for a skilful magician.

* * * * * *

"Lesly characterises him as '*singularie philosophiæ, astro-*' *nomiæ, ac medicinæ laude præstans; dicebatur penitissimos* '*magiæ recessûs indagâsse.*' Dante also mentions him as a renowned wizard: —

> '**Quell' altro che ne' fianchi è così poco**
> **Michele Scotto fu, che veramente**
> **Delle magiche frode seppe il giuoco.'**
>
> *Inferno,* canto xxmo.

"The memory of Sir Michael Scott survives in many a legend; and, in the south of Scotland, any work of great labour and antiquity, is ascribed either to the agency of *Auld Michael,* of Sir William Wallace, or of the Devil."*

Such are the elder traditions of Lord Eldon's race. A memoir of the more modern Scotts was found among his papers, in the handwriting of his brother Lord Stowell, from which the following is an extract: —

* See Sir Walter Scott's note on his *Lay of the Last Minstrel,* canto ii. stanza xiii.

"It appears to have been an ancient practice for the people of the North to resort to Newcastle-upon-Tyne, then the great emporium of the northern parts of the island, for the purpose of making or improving a fortune by merchandise. Leland mentions* three families particularly, the Carlisles, the Thorntons, and the Scotts, as raised by fortunate adventurers of that description, being first, as he says, '*merchants and men of land.*' Of the Scotts particularly, he says, '*the beginning of these Scotts was by merchandise. The Black Freres were of the foundation of Sir Peter and Sir Nicholas Scotts. Asket Castle, near Felton, was these Scotts.*' The lands of these Scotts came to 'Herons of Ford, to Dentons,'" &c.

"The immediate founder of the present family (as considered by themselves) was William Scott, who rose, as others of the same name had done, *by merchandise;* being a considerable merchant, who (by a successful application of his industry to various branches of commerce exercised in that place and neighbourhood) raised a competent fortune with a reputation of unsullied integrity, and of a singular prudence and good sense both in the management of his commercial concerns and in the whole tenor of his general conduct."

This was the father of Lord Stowell and of Lord Chancellor Eldon. By indentures, dated the 1st of September, 1716, describing him as William Scott, son of William Scott, of Sandgate, yeoman, he was apprenticed for seven years to Thomas Brummel, hoastman, of Newcastle-upon-Tyne; an apprentice

* *Leland's Itinerary,* vol. vi. folio 62.

fee of 5*l.* being paid by his father, whom family tradition describes as a clerk in a fitter's office, and a man of very good repute. The apprentice was afterwards assigned to a Mr. Joseph Colpitts, with whom he seems to have served out his time; and having, by virtue of his apprenticeship, become entitled to the freedom of the town of Newcastle, he took it up on the 25th of August, 1724, and on the 7th of September, in the same year, was admitted into the Hoastman's Company, which, as his sons used to observe, consisted of the first tradesmen in Newcastle.*

* NOTE BY THE PRESENT EARL. —We learn from *Brand's History of Newcastle-on-Tyne* (1789, vol. ii. p. 269.), that a society of ostmen or hostmen had existed as a guild or fraternity in that town from time immemorial, previous to their incorporation by charter in 1600, by Queen Elizabeth. He adds, "the cause of their appointment seems to be contained in the subsequent statute, 5 Hen. 4. cap. 9. (A. D. 1404), Marchants aliens: 'And also it is ordained and stablished that in everie citie, towne, and porte of the sea in England, where the saide marchants aliens or strangers be or shall be repairing, sufficient hoostes shall be assigned to the same marchants by the maior, sheriffes, or bailiffes of the said cities, townes, and portes of the sea; and that the said marchantes aliens and strangers shall dwell in none other plase, but with their said hoostes so to be assigned, and that the same hostes so to be assigned shall take for their travaile in the maner as was accustomed in olde time.'— *Statutes by Barker*, 1587, vol. i. p. 228."

Brand further states that it appears, from the earliest entries in the books of this society of hoastmen, that the stranger arriving at the port of Tyne to buy coals, is called "the oaste;" and he gives an engraving of "The Seale of the Freternity of the Ostmen of the Towne of Newcastle-upon-Tine," representing the hoastman receiving the stranger, and addressing him thus, "Welcome my Oste." He quotes also that "Cambden, in his *Britannia*, vol. ii. fol. 1319., gives the following etymon:—

'The word hostmen may not improperly be taken to be traders into the eastern parts of Europe, and may have their name from the Latin word oustmanni, *i. e.* the eastmen, as trading into those parts, as well as the oustmanni, *i. e.* the eastmen, who came from the sea-coast of Germany into Ireland, where, under colour of trade and

His residence was at Newcastle, and his principal business was that of a coal-fitter. The coal-fitter is the factor who conducts the sales between the owner and the shipper, taking the shipper's order for the commodity, supplying the cargo to him, and receiving from him the price of it for the owner; and this employment, as it involves considerable trust, is of proportionate respectability.

Mr. William Scott, the Hoastman, a complete table of whose descendants is given at the conclusion of this biography, was twice married. By his first wife, Isabella Noble, who died at Newcastle in January, 1734, and who had borne him three children, he had issue of three generations, all of whom are now extinct.

He married, secondly, (August 18th, 1740, at Horton, Woodhorn, Northumberland,) Jane Atkinson, daughter of Henry Atkinson, Esquire, of Newcastle. He lived to be seventy-nine years of age, and she to be ninety-one. By her he had thirteen children, of whom John, the subject of this memoir, was the eighth. It will be seen from the pedigree, that those of the brothers and sisters who grew up to be the companions of John, were only William, Barbara, Henry, and the last of the three Janes.

The circumstances of Lord Stowell's birth were

merchandise, being admitted into some of their cities, in a short time they began a very terrible war.'"

The fraternity of hoastmen of Newcastle-on-Tyne, as Brand further informs us, are also called fitters, and he mentions that the following expressions from their own books "will best explain the meaning of this appellation. 'Acts 20 Januarie, 1600. 7th.—None shall "fitt" any keel or keels of anie other brother without the consent of the owner thereof, &c.'—'Fitt Tyde' occurs ibid.——April 28. 1625, 'to fitt and load coles abord of the keeles, &c.' occurs."

remarkable. There are two versions of them, the more commonly received being as follows:—

On the 17th of September, 1745, the city of Edinburgh had surrendered to the Pretender's army, whose road to London lay directly through Newcastle. The town walls were planted with cannon, and every preparation was made for a siege. In this state of things, Mrs. Scott's family were anxious that she should remove to a quieter and safer place. The narrow lanes, or, as they are called, chares, of Newcastle, resembling the wynds of Edinburgh, communicate from the upper part of the town to the quay side, and in one of these, named Love Lane, which is in the parish of All Saints, stood the residence of Mr. William Scott, conveniently situate for the shipping with which he was connected; but the line of the town wall at that time ran along the quay between Love Lane and the River Tyne: and, the gates having been closed and fortified, egress in any ordinary way appeared almost impossible. This obstacle, however, was overcome by the courage of Mrs. Scott, who caused herself to be hoisted over the wall in a large basket, and descended safely on the water-side, where a boat lay in readiness. It conveyed her to Heworth, a village distant only about four miles from Newcastle, but situate on the southern side of the Tyne, within the county palatine of Durham; and at Heworth she gave birth to the twins William and Barbara.

This is the more romantic of the two stories; but the more accurate is probably that of Mrs. Foster, the grand-daughter of Mrs. Scott, communicated in a letter to the present Lord Eldon, of which the following is an extract:—

"14th Jan. 1840.

"I was above twenty-six years of age when my grandmother died, and, during a constant intercourse with her, I have heard her repeat the circumstances attending my uncle and aunt's births hundreds of times; and I am the more anxious to send you this information, as of late years romantic accounts have got into various publications, which are totally incorrect.

"My grandmother Scott being with child in the year of the Rebellion, 1745, it was deemed more prudent for her to be confined at my grandfather's country house at Heworth than in the town of Newcastle. She was therefore attended at Heworth by a midwife who delivered her of a male infant (afterwards Lord Stowell); but some difficulty arising in the birth of the second child, a man on horseback was despatched to Whickham for Dr. Askew, a medical practitioner of considerable eminence at that time. Dr. Askew not being at home, the man proceeded to Newcastle for Mr. Hallowel. When Mr. Hallowel reached the town gate, it was, on account of the Rebellion, closed for the night, and further delay becoming serious, instead of waiting until permission was procured from the mayor for his egress, he was let down from the top of the town wall, on the south side, and proceeded immediately to Heworth, where he delivered my grandmother."

In addition to the entry of baptism at Heworth, there is, in the register at the church of All Saints, the parish where the family resided in Newcastle, a record in these words: "Baptized in October, 1745, 18, Wil-"liam and Barbara, twins of William Scott, Hoast-"man. Certifyd by the Rev. Mr. Leonard Rumney, "Curate of Jarro and Heworth: occasioned by y^{e} "present rebellion."

The danger being past, Mrs. Scott returned to her home in Love Lane, Newcastle; and it was there that, on the 4th of June, 1751, she gave birth to John, afterwards the Lord Chancellor Eldon.

The manuscript Anecdote Book, which Lord Eldon wrote in his latter years for his grandson's amusement and information, and of which the most material contents, according to the dates of the respective subjects, will be found in the following pages, begins with this cautious record: "I was born, I believe, on "the 4th of June, 1751."* It appears from the register of the parish church of All Saints, New-

* NOTE BY THE PRESENT EARL. — Several of the most remarkable events of Lord Eldon's life are found related in such of his letters to his family and friends as have been preserved by them; and he has left a very few isolated memoranda. The only collected record which has come from his own pen is one which he wrote for me, when, during the summer vacation of 1824, I earnestly requested him to commit to writing the interesting anecdotes with which his conversation abounded.

A few pages on detached sheets were the first-fruits of his ready and good-natured compliance. A volume was afterwards procured for the purpose; and on Saturday, December 18th, 1824, the Anecdote Book, as it was usually called (the Eldon Anecdote Book, as it may now most properly be designated), was commenced. It begins by a brief enumeration of the principal events of Lord Eldon's life, and the dates at which they occurred: it then proceeds with a series of anecdotes not written in any particular order, but put down in succession as Lord Eldon's own recollection, or my memoranda of the topics presented them to his attention. As the writer became more interested in it, he interspersed it with some fuller details of subjects which had occupied his professional and political thoughts, and which were beyond the scope of its original character. It still, however, is in no wise to be considered as a studied or laboured work; it was written off hand, not transcribed from any rough copies, with, perhaps, the single exception of what Lord Eldon gives as "the "Speech of the Duke of York on "the Roman Catholic question, "copied from a paper, in which I "wrote it down, immediately after "my return from the House of "Lords, in 1825:" even the anecdotes which had been written detachedly in the summer of 1824 were not copied into it, but were written anew; and there is scarcely a blot or erasure in the whole volume, which consists of about 160 pages, closely written, and of what is commonly called letter-paper size; while, nevertheless, there are but few clerical errors to be found in it.

castle, that he was baptized on the 4th of the following July.

The house in Love Lane, in which he was born, remained afterwards standing for many years. When it was pulled down, some small houses were built on a part of its site, and the remainder was bought by the corporation of Newcastle, who converted the ground to the widening of Forster Street. The house to which Mr. William Scott had removed, on leaving his before-mentioned residence, was also situated in Love Lane, and built by himself. It was sold by Lord Stowell after the death of his mother, but it is still standing, with a large warehouse added to it; and, having been the abode of Lord Eldon in his childhood, it has been mistaken for his birth-place. Such was the respect attaching to it on that account, that, there being occasion to remove part of an oak-beam from it, the piece was carefully preserved by one of his townsmen, Mr. Robert Gilchrist, who presented him, in 1829, with a box manufactured from that ancient relic.

The lower extremity of any of these lanes or chares is called the chare foot; and Lord Eldon is said to have one day stated in the court of Chancery that he had been born in a chare foot.*

Lord Eldon's elder sister, Barbara, used to relate that, during one of their mother's confinements,

* There is a story, too, that at the Newcastle assizes, in a case where a witness swore that at a certain time he saw three men come out of the foot of a chare, the judge who tried the indictment recommended it to the jury to take no notice of this evidence, as being obviously that of an insane person. The foreman of the jury, however, restored the credit of the witness, by explaining that the chare, from whose foot the three men had been seen to issue, was not an article of furniture, but a narrow street.

"Master Jacky being in her room in a go-cart, the nurse quitted her for something that was wanted, leaving the door open; away went Master Jacky after her, tumbling down a whole flight of steps, go-cart and all. Mrs. Scott got a great fright, being unable to get out of bed to stop him." But no other mischief seems to have ensued.

When William, the eldest brother, was old enough to begin his education, his father sent him to a mistress's school to be taught to read. He very soon, however, stoutly refused to go, and told his father he would go to a master, but he would not be taught by any old woman living. He was then about four years old. Mr. Scott was pleased with the boy's spirit, and sent him to Mr. Warden, an approved master of that day, and long remembered in Newcastle by the name of Dominie Warden. John afterwards received the rudiments of his education from the same instructor: whose manner of teaching to read had this peculiarity, that instead of sounding each consonant with an auxiliary vowel, as B be, F ef, K ka, and so forth, he confined the expression of each consonant to its own almost mute sound, as B, F, or K. This mode of *muffling* the consonants is said to have been very successful with the learners.

At suitable ages, the three boys, William, Henry, and John, were sent to the Royal Grammar School, then called the Head School, and anciently the Hye School, founded by Thomas Horsley, mayor of Newcastle in the years 1525 and 1533 *—"to be free for any within or without that town." He left lands for its maintenance: and the corporation of the town, in whom he vested the patronage, added a stipend of four marks

* See *Brand's History of Newcastle,* vol. i. p. 86.

T. M. Richardson del. A. Picken lith. Day & Haghe Lith^rs to the Queen

ENTRANCE to the GRAMMAR SCHOOL, NEWCASTLE, at which LORD CHANCELLOR ELDON was EDUCATED.

yearly for ever. Its first situation was in St. Nicholas's churchyard, in a building on the north-east side of the church. Afterwards, when it became a royal foundation, under a charter granted by Queen Elizabeth in the forty-second year of her reign, it was removed to the hospital of St. Mary, in the Westgate. The charter declares the queen's regard for the instruction of youth, from their tender years, in the rudiments of the true Christian religion, and in learning and good manners; directs that the foundation be styled the Free Grammar School of Queen Elizabeth; and constitutes the master and scholars a body corporate.

Bentley's celebrated antagonist Richard Dawes, the author of the *Miscellanea Critica*, had been head master of this school from 1738 to 1749, in the latter of which years he resigned, and was succeeded by the Rev. Hugh Moises, fellow of Peterhouse. Dawes's eccentricities had reduced the number of the scholars. The assailant of the formidable Bentley had, according to the *Biographia Britannica*, been much addicted to the amusement of bell-ringing, until he relinquished his employments and retired to Heworth, the little village on the Tyne, before mentioned as the birth-place of the twins; where, instead of ringing, he took to rowing. His successor, Mr. Moises, by the agreeable manners and decorous conduct which he combined with his very considerable learning, soon restored the school to its reputation and popularity. He received no boarders; he was unremitting in his attention to his pupils; and the school had in his time this further advantage, as a place of education, that the principles of mathematical science were then taught there by no less considerable a master than the afterwards celebrated Professor Hutton. With

such facilities for instruction, the town of Newcastle, when distant journeys were more tedious and expensive than at present, recommended itself very generally to the northern country gentlemen who had boys to be educated. The custom that the masters of this school should teach there in their university-gowns gave additional dignity to the business of instruction.

We learn, from the Memoirs of Mr. Moises, written by his pupil, the Rev. John Brewster, rector of Egglescliffe*, that when the Scotts were at the school, the arrangement of it was as follows:—

"Mr. Moises as head-master, with the senior scholars, occupied the inner apartment or election room; the second master's place was on a platform elevation of two steps at the upper end of the school-room; and the third master's seat was near the lower end. The master, who first came into school in the morning, read a selection of prayers from the Liturgy, from the second master's seat; and one of the senior boys read a chapter of the New Testament, from a pew or rostrum rising behind it. After this the business of the day commenced. I do not imagine that the practice of the school differed essentially from that of the higher schools so justly celebrated in this country. The boys were arranged in classes according to their age and attainments; and, that all might come under the head-master's eye, every Friday was appointed as his day of hearing of the lower schools. Mr. Moises had a pleasing and familiar way of interpreting the Latin classics, particularly Horace and Terence. When the lesson came from Terence, the boys were delighted with the dramatic turn which the master gave to the interpretation. He read also the comedies of Plautus with the same effect. Mr. Moises was particularly distinguished by his knowledge of the Greek choruses, and therefore Sophocles, Euripides, and Aristophanes were read in the school. The senior boys also read the orations of Isocrates, the oration of Æschines *in Ctesiphontem*, and of Demosthenes *de Coronâ*. He also re-

* 1823. Private impression, printed by Walker, Pilgrim Street, Newcastle.

quired a translation of the whole of the *Commentary of Longinus on the Sublime;* and expected a particular account of all their studies. Sometimes he lent them books, which were not in the course of school reading.' Latin and English declamations, and the usual themes, were part of the exercises of the school; and when any boy did not write Latin verse with some taste for that mode of composition, he was not compelled *invitâ Minervâ* to attempt it, but he was required to finish his English essays with peculiar niceness. This led many of his pupils to the early practice of English prose composition; and to such as were intended for holy orders he recommended *to compose their own sermons.* 'These,' he used to say, 'will not be such, perhaps, as you will approve of in maturer years, but they will give you such an habit of study and composition, as will be of essential advantage. Having used them, burn them and write others.'

"Mr. Moises was particularly attentive to the instruction which he gave to young men, just entering upon the study of divinity: and as his *lectures* on the New Testament, as I may truly call them, were delivered to the two or three upper classes *every morning* as their first lesson, they became more or less the study of all. The chapter which was read at prayers was the text of the day; it was construed from the original into Latin by the scholars, and elucidated, verse by verse, by the master. This mode of *vivâ voce* interpretation had a great effect.

"It is not easy to describe the easy and familiar manner with which Mr. Moises met his scholars. They appeared never to be absent from his mind. His heart, indeed, seemed to be absorbed in his profession; but not as a drudge intent on the minutiæ of his office, but acting towards them with such an open liberality of sentiment on the subjects of his instruction, that his pupils, whilst they received the benefit of his parental observations, accepted them as the offer of one bent on their improvement; presented, as they were, with an urbanity always acceptable and conciliating."—*Brewster,* pp. 26—29.

One of the first pages of Lord Eldon's Anecdote Book contains this affectionate reminiscence of his instructor:—

"The head-master was that eminent scholar and most excellent man, the Rev. Mr. Moises. I shall hold his memory in the utmost veneration, whilst I continue to exist. There were also excellent ushers in that school whilst I continued in it. I gratefully mention the names of Mr. Clarkson, Mr. Hall, Mr. King, and Mr. Walters."

William and John Scott were both of them diligent scholars, and great favourites with their master. John, though of a less joyous temperament than his elder brother, was generally beloved for his kind and gentle disposition. The distinction in the constitution of their minds at that early period is marked by a little circumstance related in a memoir of Lord Stowell*:—

"When asked to give an account of the Sunday sermon, their father's weekly custom, the eldest, William, would repeat a sort of digest of the general argument—a condensed summary of what he had heard; John, on the other hand, would recapitulate the minutiæ of the discourse, and reiterate the very phrase of the preacher. He showed a memory the most complete and exact; but failed in giving the whole scope and clear general view of the sermon, embodied in half the number of words by the elder brother."

It must be remembered however that between William's age and that of his younger brother, there was a difference of more than five years and a half.

"Lord Eldon's school-boy days," says Mr. Brewster in a letter to the present earl, dated January 1839, "are well

* Law Magazine, No. xxxiii. art 2.

worth remarking, as they bespeak the uniformity and steadiness of his future character. I knew he was a favourite with his venerable master, who often mentioned his abilities, and recommended him to the imitation of his scholars. His affable temper rendered him a favourite too with his schoolfellows; of whom, I believe, the writer of this is among the last.

"I was much interested in the venerable Lord Eldon's recollection of his own school, as mentioned by himself in one of the last judgments, which he delivered in the court of Chancery.—'As the institution of these grammar-schools,' he said, 'was expressed by the legislature to be for the purpose, amongst others, of forwarding the progress of the Reformation, we find, in almost all of them, provisions made that there should be, to a considerable extent, prayer and attendance upon public worship, according to the reformed church. I remember, that when I had the benefit of an education at one of those grammar-schools, the education was carried on, in what, I believe, was once a capella or sacellum: that the boys educated there were headed by their venerable master to church constantly upon Sundays; and *that* part of the duty of a master of a grammar-school, was, in those days, as much attended to as teaching the scholars what else they ought there to acquire. Whether the practice is now continued in grammar-schools, I do not know, but this I know, that it ought still to be attended to, as much as ever.'"

The only serious disaster which happened to John Scott in his boyhood, was a fall backward, from a window seat, against a desk or bench—so severe, as to lay open his head and leave him insensible on the ground. His intellects and even his life were for some time despaired of: and to the end of his days there remained a deep indentation near the crown of the skull.

On another occasion, being curious to see what was within a hole or window beneath the stone steps of a

gentleman's house, he passed his head between the iron rails, and was unable to draw it back again. From this pillory he was released by a female beggar passing by.

In those days, the small town of Chester-le-Street, a little more than eight miles southward of Newcastle, on the London road, was celebrated for a kind of short-cake, irresistible to the juvenile portion of society: and to that town, one fine afternoon, John, and his brother Henry who was about three years older, took a journey on foot. They loitered there so long, that the evening set in: and a friend of their father's finding them about to return at so uncomfortable an hour, dissuaded them from their intent, and gave them supper and bed at his own house. Meanwhile, through that night and the early part of the next morning, the family in Love Lane were distracted with apprehension. In vain the town of Newcastle was searched through all its streets and chares: in vain when morning came, the crier proclaimed at every corner the loss of the two little truants: until, safe and sound, though somewhat tired with their eight miles' walk, they presented themselves, in the forenoon, at their father's door. There, for their exploit, they instantly received the meed of a whipping, with which memento they were sent to school. But this was not the close of their troubles: for the schoolmaster, having learned from the proclamation of the crier, that the young gentlemen had been on their travels without furlough, thought it necessary to mark his opinion of their adventure by the administration of a second flogging.

The following are some of Lord Eldon's own recollections of his school days, communicated by him late in life to his niece Mrs. Forster, to Lady Eldon's nephew Mr. John Surtees, and to others of his connections: —

"I believe," said he to Mrs. Forster, "no boy was ever so much thrashed as I was. When we went to school we had to go by the Stock Bridge. In going to school, we seldom had any time to spare, so Bill and Harry used to run as hard as they could, and poor Jacky's legs not being so long or so strong, he was left behind. Now you must know there was eternal war waged between the Head School lads, and all the boys of the other schools; so the Stockbriggers seized the opportunity of poor Jacky being alone, to give him a good drubbing. Then, on our way home, Bill and Harry always thrashed them in return, and that was my revenge; but then it was a revenge that did not cure my sore bones."

"Mr. Surtees, when your father and I were boys, and that is now a long time ago, I remember our stealing down the Side, and along the Sandhill, and creeping into every shop, where we blew out the candles. We crept in along the counter, then pop't our heads up, out went the candles, and away went we. We escaped detection."

"Mr. Moises had one day got hold of a book belonging to one of his boys, in which the urchin had written,

'Turn over this leaf and you will see plain:'

"'Well,' said Mr. Moises, after reading that line aloud to the class, 'what is it that I shall see?' He

forthwith turned over the page, and reading the next line, set the whole school into roars of laughter,

'Fools will be meddling, so turn back again!'

'Oh you blockhead!' he said, and returned the book to the owner."

"I was once," said Lord Eldon to Mrs. Forster, "the seventeenth boy whom Moises flogged, and richly did we merit it. There was an elderly lady who lived in Westgate Street, whom we surrounded in the street, and would not allow her to go either backward or forward; she complained to Mr. Moises, and he flogged us all; when he came to me, he exclaimed—'What, Jack Scott, were you there too?' and I was obliged to say, 'Yes, Sir,'—'I will not stop,' replied he, 'you shall all have it;' but I think I came off best, for his arm was rather tired with sixteen who went before me."

"I have been very ill used, Mary, first by my father, and then by my brother Lord Stowell.—My father promised me half a crown if I said my catechism well at church. I did say it, and I assure you I said it very well; but my half crown I never received; and though I tell my brother Will, that it is as much a just debt of my father's, as any other, and that therefore he, as executor, is bound to pay it, yet he always refuses. Very hard upon me, for I said my catechism very well indeed. Do they still catechise the boys at church, Mary? We used not only to *say* our catechism, but every part was to be *proved*. 'How do you prove that, 2d class?'—'2d Romans, 3d verse,' and so on: (laying a great stress on the Newcastle R). Thus, you see, by the time we left school we were very toler-

able theologians: the practice ought not to be left off. —But I was very ill used about that half crown."

When chancellor, he gave the following piece of evidence against his own character, to Mr. Chisholme, his solicitor:—"My father," said he, "agreed with a master, who kept a writing school, to teach me the art of penmanship there, for half a guinea a quarter. In the whole of the three months I attended that school but once. My father knew nothing of this, and at the quarter's end gave me a half guinea to pay the master. When I took it to the school, the master said he did not know how he could properly receive it, since he had given nothing in exchange for it. I said that he really must take it: that I could not possibly carry it back to my father. Well, replied he, if I am to take it, at all events I must give you something for it: so come here. And, upon my going up to him, he took the money with one hand, and with the other gave me—a box on the ear which sent me reeling against the wainscot:—and that was the way I first learned to write."

After this, the writing master seems to have become more vigilant. "I think," said Lord Eldon to Mrs. Forster, "I write remarkably well, considering how I played truant from the writing school. I remember, Harry and I, going home one evening, found my father in the dining room. 'Harry,' said he, 'were you at the writing school to-day,'—'Oh yes, Papa,' answered Harry.—'And were you there, Jack?'—Now you know my elder brother had said yes, so what could I do but follow his example? so I said 'Yes, Papa.'—'And were you there yesterday?—'Yes, Sir.' 'And the day before?'—'Yes, Sir.'—'And the day before

that?'—'Yes, Sir.'—'Walk out, Mr. Benson:'—and from behind the door out walked our writing master, who had come down to complain that we had not been at his school the whole week. We were twice flogged for that, once by my father and once by Mr. Benson."

"Between school hours we used to amuse ourselves with playing at what we called 'cock nibs'—that was riding on grave stones in St. John's churchyard, which you know was close to the school.—Well, one day, one of the lads came shouting 'Here comes Moises'—that was what we always called him, Moises,—so away we all ran as hard as we could, and I lost my hat. Now if you remember, there were four or five steps going down to the school, a sort of passage. Unfortunately a servant was coming along with a pudding for the bake-house, and in my hurry, when Moises was coming, I jumped down these steps and into the pudding. What was to be done? I borrowed another boy's great coat, and buttoned it on, over my own coat, waistcoat, pudding and all, and so we went into school. Now when I came out, I was in an unforeseen dilemma, for this great coat had stuck to my own; another boy's coat sticking to me, and my own hat lost! here was an unfortunate situation!—with great difficulty the coat was pulled off; but my father was very angry at my losing my hat, and he made me go without one till the usual time of taking my best into every day wear." Mrs. Foster adds, "Lord Eldon on this occasion went three months, Sundays excepted, without a hat."

"I remember," said Lord Eldon, "my father coming to my bed side to accuse Harry and me of having robbed an orchard; some one had come to complain.

Now my coat was lying by my bed with its pockets full of apples, and I had hid some more under the bed-clothes, when I heard my father on the stairs: and I was at that moment suffering intolerable torture from those I had eaten. Yet I had the audacity to deny the fact. We were twice flogged for it. — I do not know how it was, but we always considered robbing an orchard as an honourable exploit. — I remember once being carried before a magistrate for robbing an orchard; 'boxing the fox,' as we called it. There were three of us, Hewit Johnson, another boy, and myself. The magistrate acted upon what I think was rather curious law, for he fined our fathers each thirty shillings for our offence. *We* did not care for that, but then *they did:* so my father flogged me, and then sent a message to Moises, and Moises flogged me again. We were very good boys, very good indeed: we never did any thing worse than a robbery."

Mrs. Forster adds, "When any of his boys were not down stairs at the proper time in the morning, Mr. Scott used to ascend to their room with a pair of leather taws, which he laid across the delinquents' shoulders. Harry and Jack being rather fond of their beds, and apt to receive this chastisement pretty often, determined upon stealing the taws, an exploit they successfully achieved. From that time Mr. Scott, who never replaced them, used to go to their room with his hand under his dressing-gown, as if ready to inflict the usual punishment, while the boys lay still until the last moment in secure enjoyment."

"These taws, a piece of strong leather cut into several thongs, were produced every year at my grandfather's (Henry's) house, when my uncle (Lord

Eldon) was with him, and they used to recount, with the greatest glee and triumph, this exploit of stealing them, and their amusement in seeing the old gentleman enter their room with his hand under his dressing-gown."

"I believe," said Lord Eldon to Mrs. Forster, "I have preached more sermons than any one who is not a clergyman. — My father always had the church service read on the Sunday evenings, and a sermon after it. — Harry and I used to take it in turns to read the prayers or to preach: we always had a shirt put on over our clothes to answer for a surplice."

"I should have been a very good dancer, only they never could get this left arm to conduct itself gracefully: and yet I had eight dancing masters. I remember one of them complaining that I took no pains with that left arm. 'I do not know how it is,' said he, 'Mr. Moises says you are a very good boy, but I do not find you so.'—I had the impudence to look him up in the face and say—'But you are not Mr. Moises, Sir.'"

Mrs. Forster. — "But I remember, Uncle, hearing of Master Jacky being celebrated for the hornpipes he danced at Christmas: there was an old keelman in the hospital at Newcastle, who talked of your hornpipes."

Lord Eldon. — "Oh yes, I danced hornpipes: at Christmas, when my father gave a supper and a dance at Love Lane to all the keelmen in his employ, Harry and I always danced hornpipes."

Mrs. Forster adds, "the supper which, about Christmas, Mr. Scott used to give his keelmen, was what was called a binding supper; that was a supper when

the terms, on which they were to serve for the ensuing year, were agreed upon. Patterson, the last surviving keelman in Mr. Scott's employment, dined in our kitchen every Christmas Day until his death, about ten years ago. He expatiated with great delight upon the splendid hornpipe that Master Jacky regularly danced for their amusement after these suppers."

This veteran was not destitute in his old age; and Lord Stowell made him an annual present to add to his comforts at Christmas.

"I believe," said Lord Eldon to Mrs. Forster, "no shoemaker ever helped to put on more ladies' shoes than I have done. At the dancing school, the young ladies always brought their dancing shoes with them, and we deemed it a proper piece of etiquette to assist the pretty girls in putting them on.—In those days, girls of the best families wore white stockings only on the Sundays, and one week day which was a sort of public day:—on the other days, they wore blue Doncaster woollen stockings with white tags."

"We used, when we were at the Head School, early on the Sunday mornings, to steal flowers from the gardens in the neighbourhood of the Forth, and then we presented them to our sweethearts. Oh, those were happy days—we were always in love then."

CHAPTER II.

1761—1771.

OXFORD. — WILLIAM SCOTT'S DURHAM SCHOLARSHIP. — LETTERS, CHARACTERS, AND ANECDOTE, OF MR. SCOTT, THE FATHER. — WILLIAM SCOTT'S FELLOWSHIP. — JOHN SCOTT'S ENTRANCE AT OXFORD. — SAT CITO SI SAT BENE. — JOHN SCOTT'S FELLOWSHIP: HIS PURSUITS AND FRIENDSHIPS: HIS OXFORD ANECDOTES AND JOKES: HIS PRIZE FOR THE ENGLISH ESSAY: HIS EARLIEST EXTANT LETTER. — PRANKS.

A SCHOLARSHIP, for the diocese of Durham, having become vacant at Corpus Christi College, Oxford, Mr. Scott, senior, aware of his son William's extraordinary talents, resolved that the youth, who was then in his sixteenth year, should avail himself of his accidental birth within that diocese, to become a candidate for the honour. William therefore proceeded to Oxford, and, on the 24th of February 1761, passed the examination for the scholarship with high distinction: but a whimsical mistake on the part of Dr. Randolph, the Head of the college, left his election, for a little while, in some danger. He had stated, in the course of his answers to the usual questions, that his father was a fitter: of which term an explanation has been given in the first chapter. When the candidates had retired, Dr. Randolph delivered his opinion to this effect: "I think, gentlemen, there can be no doubt that young Scott is by far the best scholar of them all; but he has told us that his father is a fiddler, and I do not quite like to take the son of a fiddler into the college." The word

fitter, thus warped into fiddler, was one which, though familiar enough in the coal districts of the north, had no currency among the classic groves of Oxford: and it was probably rendered still more unintelligible by that guttural rumbling, or burr, so general among Northumbrians, from which William Scott was by no means exempt. The objection, however (no very valid one even had it been applicable), vanished altogether upon explanation: and the deserving candidate was elected to the scholarship on the same day. On the 26th he was admitted to it,—his age, as the college books record, "being fifteen "years on or about the 28th day of October last "past:"—and on the 3d of March he was matriculated as "Gulielmus Scott, Gulielmi de Heworth civit.* "Dunelm. gen. fil.'

The extracts which follow, from three letters of the father about the end of the same year, illustrate the manners of the time, and the character of the man.

Mr. Scott (Hoastman) to his Son William.—(Extract.)

"Dear Son, "5 Dec. 1761.

"Since mine of the 17th past, I received yours of the 25th ditto, in which you wrote the greater part of the small sum I sent you had been employed in paying some necessary bills, which bills you said you would send me, if I desired to see them. I have great confidence in your economy, yet after telling you I had a desire to see those bills you'll doubtless send them by your next.

"I was in some hurry when I wrote last to you, that I omitted telling you I was pleased with what you said relating your birth-day, and hope, as you increase in years, you'll also increase in goodness, and in all things that may

* Sic. in orig., apparently a clerical error for "comit."

recommend you to the favour of all good men, which God grant."

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Mr. Scott (Hoastman) to his Son William.—(Extract.)

* * * "9 Jan. 1762.

"My asking for your accounts was affectionately meant: and, now that I tell you so, you'll doubtless send, and it would be a satisfaction to me to receive the best accounts you can send me of the bills I send you; and give me always ten or twelve days' notice of want of money, and you'll find me ready enough to supply you, so as you live comfortably."

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Mr. Scott (Hoastman) to his Son William.—(Extract.)

* * * "Newcastle, 26th Feb. 1762.

"Write once a month; remember you laughed at Capt. Geo. Bell's letter to me, when he wrote from London thus:—

'Sir: I arrived here well:
Your humble servant, GEO. BELL.'

Give us a letter once more; if you have nothing else to say from Oxford, say,

'I am well, question not:
Your dutiful son, WM. SCOTT.'

If I did not think you were well, I would not jest in this manner."

The character of Mr. Scott the elder is favourably exhibited in the following occurrence. He was riding along a lonely part of the road between Newcastle and Shields, when a man, on foot and in disguise, stopped his horse, and, pointing a pistol, demanded money. Mr. Scott recognised him to be the son of a gentleman of that country: and, shocked by the discovery, and regardless of his own danger in avowing a knowledge of the robber's person, ex-

claimed, "Good God, young man, what would your father do if he knew what you are about?" The unexpected appeal was successful. It went to the heart of the offender, who threw himself down before Mr. Scott, and earnestly entreated him to pardon and keep secret what had passed. It is hardly necessary to add that Mr. Scott complied with the request. "When my father told me this incident," said Lord Eldon to his grandson, "he added, that, at the time of his telling it, the person he had reclaimed was living in that part of the country, in a highly respectable station."

The Durham scholarship had been the first fruit reaped by William Scott from his mother's temporary retirement out of Northumberland into Durham. The same circumstance appears to have aided him in obtaining, at nineteen years of age, a University College fellowship, to which he was elected 14th Dec. 1764, on the vacancy occasioned by Mr. Wetherell's promotion to the mastership of that college. This fellowship was on the foundation of William of Durham: which is open, but with a preference, in cases of equal merit, to candidates born in the parts nearest to Durham. Although the state of the University, from the want of prizes and public examinations in those days, was very unfavourable to the display of talent, William Scott had acquired so high a reputation, that in 1765, before he had completed his twentieth year, he was appointed a college tutor: and that office he retained until the end of 1775. He took the degrees of B. A. Nov. 20. 1764;—M. A. June 17. 1767;—D. C. L. June 23. 1779.

The successes of the elder brother at Oxford laid

a foundation for the fortunes of the younger also. When John approached the completion of his studies at the High School, his father, who had formed a design of qualifying him for his own business of a fitter, was making arrangements to that effect, with which he acquainted William, then at the University. In answer to this communication, William wrote to his father, dissuading him from the design. "Send Jack up to me," he said: "I can do better for him here." He was sent accordingly, and, on the 15th of May, 1766, was matriculated as a member of the University of Oxford, by Dr. Durell, the Vice-chancellor, having, on the same day, been entered as a commoner of University College. "I was entered," he notes in his Anecdote Book, "under the tuition of Sir Robert Chambers and my brother Lord Stowell."

In strictness of speaking, his entry was under his brother only, as the college books show: "1766, Maii "15. Ego Johannes Scott filius natu minimus Gulielmi "Scott Generosi, De Novo Castro super Tinam in "Com. Northum. lubens subscribo, sub tutamine "Domini Scott, annos natus circiter quindecim." He then lacked several weeks of fifteen; and his brother used afterwards to say, "I was quite ashamed of his appearance, he looked such a mere boy."

"I have seen it remarked," says Lord Eldon in his Anecdote Book, "that something which in early youth captivates attention, influences future life in all stages. When I left school in 1766 to go to Oxford, I came up from Newcastle to London in a coach, then denominated, on account of its quick travelling as travelling was then estimated, a fly; being, as well as I remember, nevertheless, three or four days and

nights on the road: there was no such velocity as to endanger overturning or other mischief. On the pannels of the carriage were painted the words '*Sat cito, si sat bene:*' words which made a most lasting impression on my mind, and have had their influence upon my conduct in all subsequent life. Their effect was heightened by circumstances during and immediately after the journey. Upon the journey a Quaker, who was a fellow-traveller, stopped the coach at the inn at Tuxford, desired the chambermaid to come to the coach-door, and gave her a sixpence, telling her that he forgot to give it her when he slept there two years before. I was a very saucy boy, and said to him, 'Friend, have you seen the motto on this coach?'—'No.'—'Then look at it: for I think giving her only sixpence *now* is neither *sat cito* nor *sat bene.*' After I got to town, my brother, now Lord Stowell, met me at the White Horse in Fetter Lane, Holborn, then the great Oxford house, as I was told. He took me to see the play at Drury Lane. Love played Jobson in the farce, and Miss Pope played Nell. When we came out of the house, it rained hard. There were then few hackney-coaches, and we got both into one sedan-chair. Turning out of Fleet Street into Fetter Lane, there was a sort of contest, between our chairmen and some persons who were coming up Fleet Street, whether they should first pass Fleet Street, or we in our chair first get out of Fleet Street into Fetter Lane. In the struggle, the sedan-chair was overset with us in it. This, thought I, is more than *sat cito*, and it certainly is not *sat bene.*—In short, in all that I have had to do in future life, professional and judicial, I have

always felt the effect of this early admonition, on the pannels of the vehicle which conveyed me from school, '*Sat cito, si sat bene.*' It was the impression of this which made me that deliberative judge — as some have said, too deliberative; — and reflection upon all that is past will not authorise me to deny that, whilst I have been thinking '*sat cito, si sat bene,*' I may not have sufficiently recollected whether '*sat bene, si sat cito*' has had its due influence."

"My dignity, after I first went to Oxford," said Lord Eldon to Mrs. Forster, "received a sad pull-down: for, in the long vacation, my father sent me back again to the Newcastle *School.* — Then, to make the matter worse, Mr. Moises used to talk, as if the having been a few weeks at Oxford was to do wonders for my learning: so, when the other boys had answered all his questions, 'Now,' he used to say, 'let us hear what the Oxonian will tell us:' and, when I had answered, he would add, 'That is what 'the Oxonian has to say, is it?' till I got quite the name of the Oxonian." — He was then but just fifteen years of age.

There is no truth in the story that Mr. Moises paid, or contributed to pay, his college expenses. His education was wholly at his father's cost, except as he himself assisted to defray it by the fellowship at University College, to which he was elected on the 11th of July 1767, on a vacancy occasioned by the resignation of the Rev. John Rotheram, A. M. — This fellowship, which John Scott achieved when he had but just completed his sixteenth year, was on the foundation of Henry Percy, Earl of Northumberland, for persons born in the dioceses of Durham, Carlisle,

or York, with a preference, in cases of equal merit, to natives of the county of Northumberland.

In the Anecdote Book, Lord Eldon, after adverting to the circumstances of the rebellion, which occasioned Mrs. Scott to leave Newcastle for the adjoining county when about to give birth to William, says, "His birth in the county of Durham qualified him to be a candidate for the fellowship in Oxford which he afterwards obtained. His influence in that station procured for me the fellowship in Oxford which I afterwards obtained. To both these fellowships were of great use in life, and in our future success in it. We owe much therefore to what it is to be wished nobody should profit by, viz. Rebellion."

It appears that from his very boyhood, the favourite plaything of John Scott was a gun. In the Oxford vacations he was frequently at Blagdon, the seat of Sir Matthew White Ridley, whose brothers, Nicholas and Henry, were among his college friends: and then the partridges found but little quiet. He was not fond of taking the field with a party, but would follow the sport alone, starting early and returning late.

In after-life his connection with the Ridleys became still closer. When Chancellor, he had the gratification of appointing Nicholas a Master in Chancery, and of obtaining for Henry (who had married Miss Frances Surtees, Lady Eldon's sister, and taken the degree of Doctor of Divinity) a prebendal stall in the cathedral of Gloucester. The daughter of Sir Matthew became the wife of the Chancellor's eldest son, and the mother of the present Earl.

The first matter of law, ever learned by the future

Chancellor of England, appears to have been the rule laid down by the legislature in the Statute of Frauds (29 Charles II. chap. 3. s. 4.) that no agreement is enforceable upon any contract or sale of lands unless such agreement, or some memorandum or note thereof, be in writing, and signed by the party to be charged therewith or his authorised agent. Of this enactment the following story, told by Lord Eldon in his Anecdote Book, is a pleasant exemplification:—

"There was an attorney at Newcastle, when I was a boy at school, not of a very popular character for integrity. The leading and eminent physician of that day there was Dr. Askew. A gentleman in extreme bad health came into that country to sell an estate before he died. He sent for the attorney upon the business of selling the estate,—first about advertising it for sale and adopting all other proper means for obtaining a reasonable price. The attorney, who, it was said, well knew the estate and its value, told the gentleman that he was willing to give him a sum he named, which he assured him was its full worth, and if he would take that sum he would give it him, and all further trouble might be saved. This was agreed to, and the attorney went to his office, to prepare articles to be signed and sealed." The gentleman, having thus taken care of his estate, turned his attention immediately to the care of his diseased body, by sending for Dr. Askew and desiring his immediate attendance. The Doctor came quickly, and after asking a few questions as to the state of the gentleman's health, inquired what had brought him in such a state into that country. This led to the Doctor's learning that he had come there to dispose of the estate, which was

in Northumberland. The Doctor said, he should be very glad to buy the estate;—but he was informed by the patient that it was sold to the attorney. Then said the Doctor, 'Thou art probably cheated: I'll give, without a word more, two thousand pounds beyond what the attorney has offered.' The gentleman was scrupulous about accepting this second offer, but he overcame his scruples. The Doctor then took pen, ink, and paper, and wrote himself a short but sufficient article of sale and purchase, and both signed it. Soon after, the attorney entered the room with his intended written contract; but finding himself too late, he began to abuse the Doctor most unmercifully, for cheating him out of the benefit of his bargain. 'Scold on,' says the Doctor. 'Do you imagine that any body will think that I have done wrong, if I have cheated thee, a lawyer, who has cheated all the rest of mankind?'"

In the middle of the last century, Oxford saw at least as much of hard drinking as of hard study. The Anecdote Book tells a story of a Doctor of Divinity, whom Mr. John Scott saw trying, under the influence of some inspiration much stronger than that of the Pierian stream, to make his way to Brazennose College through Radcliffe Square. He had reached the library, a rotunda then without railings; and, unable to support himself except by keeping one hand upon the building, he continued walking round and round, until a friend, coming out of the College, espied the distress of the case, and rescued him from the orbit in which he had been so unsteadily revolving.

In days when Doctors of Divinity were thus unguarded in their conviviality, under-graduates could

hardly be expected to preserve a very ascetic temperance. Among the waggeries of the wine parties, Lord Eldon's Anecdote Book has preserved one, which will put the reader in mind of Swift's English derivations for classical names. At Corpus Christi College there were drinking-cups, or glasses, which, from their shape, were called ox-eyes. Some friends of a young student, after seducing him to fill his ox-eye much fuller and oftener than consisted with his equilibrium, took pity at last on his helpless condition, and led or carried him to his rooms. He had just Latin enough left at command, to thank them at the stair head with, "Pol, me ox-eye-distis, amici." *

When Christ Church meadow was overflowed and sufficiently frozen for skaiting, people used to ply on the ice with kegs of brandy and other cordials for the skaiters. John Scott, then an under-graduate, was skaiting over a part of the meadow where the ice, being infirm, broke in, and let him into a ditch, up to his neck in water. When he had scrambled out, and was dripping from the collar and oozing from the stockings, a brandy-vender shuffled towards him and recommended a glass of something warm: upon which Edward Norton, of University College, a son of Lord Grantley, sweeping past, cried out to the retailer: "None of your brandy for that wet young man: — he never drinks but when he is *dry*."

Lord Eldon used to relate of Mr. Windham, who was his fellow-student at University College, that he was observed by the Master (Dr. Wetherell, the father of Sir Charles) to be making free use of pencil and

* Horat. Epist. lib. ii. Ep. 2. line 138.

paper, during one of the Master's college lectures. "Sir," said the Doctor, "it always gives me the "greatest pleasure to perceive young men paying so "much attention to what is taught them, and taking "notes with such care: pray hand me up your paper:" Mr. Windham had some difficulty in excusing himself: the truth being that the production of his pencil was not a sketch of the lecture, but of the Doctor.

The Anecdote Book says, "Mr. Windham, who was a great classical scholar, and hated a pun, good or bad, reading Demosthenes with great admiration,—Τέθνηκε φίλιππος; (Is Philip dead?) Οὐ, μὰ Δί' (No, by Jupiter)*,—was put into a great passion by a fellow-student (apparently John Scott himself) saying, 'No, Windham, you see he is not dead: the Greek words only say he '*may die.*'"

The Anecdote Book gives the origin of another pun, now very familiar to young students:

"Old Dr. Leigh, of Baliol College, a great punster, when he was Vice-Chancellor of Oxford, going out of the theatre, and being unpopular among the young men for some due and proper acts of discipline, was saluted with much sibilation. He turned round and said, 'Academici, laudamur ab *his*.' This pun produced an entire change, and the young men applauded him."

The next is a better jest, which Lord Eldon, though he has omitted it in the Anecdote Book, was fond of telling among his Oxford stories. A clergyman had two churches, Newbury and Bibury; and, instead of dividing the duties equally between them,

* First Philippic, v.

chose always to perform the morning service at the former, and the evening service at the latter. Being asked his reason, he made answer: "I go to *nubere* in the morning, because that is the time *to marry;* and I go to *bibere* in the evening, because that is the time *to drink.*"

"There was once," said Lord Eldon to Mrs. Forster, "a gentleman, who had been one of the professors, and who came from Yorkshire to Oxford to consult Mr. Nurse, a surgeon of some celebrity, about a severe complaint under which he laboured. The case proved one which could not be cured, but might be mitigated, and Nurse was very anxious that he should be kept amused: so he insisted upon his changing his lodgings to a better situation, and he took for him a room commanding a view down High Street. When, however, he was seated at the window, it was found that a tree, growing in All Saints' church-yard, stood in the way and intercepted the full view of that street. So Nurse kept mumble, mumbling, to me and a few others, that it was a great pity *that* tree should be allowed to remain standing, till he inspired us with a wish to get rid of it; for we were all much attached to the Professor. So, one night, when the moon was under a cloud, we set the gentleman's servant to cut down this tree, whilst we stationed ourselves at different parts to watch. Well, he was very long about it, and the moon began to appear, and we were in a great fright, so got over the wall to see what he was about. He was a Yorkshireman, and he told us, 'the seg winna wag;' and that, which meant 'the saw will not move,' was all we could get from him. So we had to help him:—down came the tree, and away

we all scampered. The next day there were handbills and proclamations from the mayor and magistrates, offering a reward for the conviction of any of the offenders, who had the night before committed a dreadful crime in All Saints' churchyard. None of us peached, so we all escaped: and Nurse said it was the most glorious crime that ever had been perpetrated in favour of a patient."

Mr. John Scott took his Bachelor's degree, in Hilary term, on the 20th of February 1770.—"An examination for a degree at Oxford," he used to say, "was a farce in my time. I was examined in Hebrew and in History. 'What is the Hebrew for the place of a skull?'—I replied, 'Golgotha.'—'Who founded University College?'—I stated (though, by the way, the point is sometimes doubted), 'that King Alfred founded it.'—'Very well, sir,' said the examiner, 'you are competent for your degree.'"

In the year 1768, the Earl of Lichfield, Chancellor of the University of Oxford, had instituted two annual prizes there, for the best compositions in English prose and Latin verse respectively: the prize for Latin verse being limited to members who had not exceeded four years from their matriculation: and that for English prose to members who had exceeded four years but not completed seven, and who had not taken the degree of Master of Arts, or of Bachelor of Civil Law. The subject in 1771, was "The Advantages and Disadvantages of Foreign Travel;" and, in the Trinity term of that year, the prize, of the value of 20*l.*, was adjudged to the essay bearing the motto of "Non alibi sis, sed alius." This essay was written by John Scott, while yet under the age of 20 years.

It has been published in *Talboys's Collection of the Oxford English Prize Essays*, 1830. His brother William, who, as these prizes were not founded till after he took his degree of M. A., had had no opportunity to earn distinctions of this kind in his own person, was delighted at the attainment of them by his dear relative and pupil.*

But no member of the young essayist's own family could be more gratified by his success than the master of the Head School at Newcastle. Mr. Brewster, in his *Memoirs* of that worthy man, tells us he remembers Mr. Moises entering the school, with delight in his countenance, and the prize essay in his hand, and saying to the senior lads, "See what John Scott has done!" And for many a year afterwards, as another of the old man's scholars used to relate, Mr. Moises, when any of his boys did well, would give them this qualified praise, "Well done, very well done; but I have "had lads that would have done better:—the Scotts "would have done better than that."

A jocular epistle, addressed to his cousin, college-friend, and fellow-townsman, Mr. Henry Utrick Reay,

* NOTE BY THE PRESENT EARL. —"The excellence of the education at University College during the tutorship of Lord Stowell, which ranges from 1765 to 1775, may be inferred from the fact that out of the five first prizes adjudged for English prose, four were gained by members of University College, namely in 1768 by G. Croft, in 1769 by George Strahan, in 1771 by John Scott, and in 1772 by his friend Philip Fisher. ... "Strahan and Fisher were intimate friends of John Scott, who, when Lord Chancellor, appointed Strahan to a prebendal stall at Rochester, and Fisher to one at Norwich. The Chancellor was mainly instrumental too in procuring the election of the latter to the mastership of the Charter-House, which he held until his death, January 19th 1842, in the ninety-second year of his age."

(who seems to have borne the name of Peters among his familiars), is believed by Lord Eldon's family to be the earliest piece of his correspondence now extant. Like too many of his letters, it is without date. It was apparently written in 1771, during the interval between the Trinity term when Mr. John Scott received his prize for the essay, and the following November, when the bridge at Newcastle, mentioned in the letter, was destroyed. It is a sort of grave jest, and seems to have been composed with a view to punish Reay, by way of *bore*, for some waggish description of "the distant region of Chester," which Reay himself had been perpetrating, probably in reference to Scott's lucubrations upon travel:—

"My dear Peters,

"I received your friendly epistle, the pleasure of perusing which I had almost been deprived of, by the friction it had suffered in so long a conveyance. There is nothing, says an ancient sage, which conveys a more pleasing satisfaction to the mind of man than a new discovery; and it was upon this principle that we have the Ευρηκα of a quondam philosopher handed down to us his posterity, in such ecstatic expression. Near akin to this sensation is that pleasing pain we feel in poring over descriptions of foreign climes; and the mind exults if it finds the account clothed in that richness of language and elegance of diction, which so conspicuously beautify and adorn your picture of the distant region of Chester. Like Mr. Moises' Nanny, you deal so well in the descriptive, that you point out the minutest circumstances with a propriety that makes trifles interesting; and hold forth to our view objects, more difficult to paint, in that simplicity of speech, which proves to us, that, like other great men, you look upon perspicuity as the first beauty of composition. You have indeed attained such excellence in the art of describing places before you come to them, that in this our day, Addison might blush to read his travels (so much are yours superior to

them), and Maundrell wish to wrap up his Jerusalem artichokes in Lethæan oblivion.

"With what modest diffidence then shall I enter upon the laborious task of describing this place of my residence? a task which I should not undertake (so unequal are my shoulders to the weight) unless to oblige you, my friend, by giving you such a description of Newcastle, as may enable you to form a clear and distinct idea of this town, though you never saw it.

"Say, Muse, where shall I begin? At the bridge. This is an elegant structure, of thirteen arches. The battlements are beautified, with towers, houses, &c., and, what is a very extraordinary circumstance, it is built over a river. From hence you proceed to the Sand-hill. Here you have presented to your view, the Exchange, and Nelly's, Katy's, and Harrison's Coffee-Houses: from the windows of which you may view the operations of shaving, turnip and carrot selling, and the fish-market—if you turn your eyes that way. The quay is reckoned one of the best in England. The water makes the prospect very agreeable; and there is no deficiency of wood, in the shape of planks, tar-barrels, and trees of that kind. At the east-end of this, passing through a magnificent arch, you come to a street called Sandgate, which, whether you consider the elegance of the buildings, or the number of the inhabitants, or that strict regard they pay to decency, is equalled by none in the kingdom. From the before-mentioned quay are many lanes, most of which terminate in the Butcher-bank, so called because it is a kind of hill, where are sold, daily, beef, mutton, and veal."—After a description, in the same vein, of Pilgrim-Street, of Westgate, and of several churches, he brings the remaining localities into this sweeping conclusion:—"Now as to the Groat-market, the Big-market, the Meal-market, the Jail, Gallowgate, the Leases, Northumberland Street, High and Low Friar Chare, Sir Walter's, the Croft, the Dog Bank, Pandon, the Close, the Castle-garth, Hanover Square, Bailey Gate, Polstern, Denton and Pudding Chares, the Manor Chare, the Spital, High and Low Bridge, Painter Heugh, the Burnt House Entry, Walk Knolls, Sally-Port-Gate, Pandon Bank, Silver Street, Els-

wick Fields, Shieldfield, Infirmary, Hospitals, Almshouses, Rosemary Lane, Breakneck *Stairs,* Turtle *Stairs,* and all other places which would make *you stare,* are they not written in Bourne's Account of Newcastle?

"Methinks I have now got sufficient revenge; and it is time to conclude myself,

"Yours sincerely,

"J. S."

Another letter to Mr. Reay, which appears from internal evidence to have been written 2d September 1771, may be noticed here, as containing the earliest mention of Miss Elizabeth Surtees, afterwards his wife. He is speaking of the visit paid to Newcastle by Henry, Duke of Cumberland, brother of George the Third; and he says to his friend,—

"The ladies are, as we supposed, half mad about the Duke of Cumberland. Miss Surtees and my dear Bell, it seems, were frightened out of their wits when he danced with them."

The lady whom he calls his dear Bell was Miss Allgood, afterwards Mrs. Lambton Loraine.

"At the assembly rooms at Newcastle," said he to Miss Forster, "there were two rooms, and a stair-head between them; so we always danced down the large room, across the stair-head, and into the other room. Then you know, Ellen, that was very convenient; for the small room was a snug one to flirt in. We always engaged our partners for the next ball, and from year to year. We were very constant."

The Anecdote Book has the following story, of which Mr. Reay is the hero:—

"Reay, who was always in high spirits, dined with me at Mr. Smith's in Leeds, the father of Mr. Smith afterwards accountant-general of the Court of Chan-

cery. Reay and I set out, after dinner, to go towards Newcastle-on-Tyne. At that time Mr. Lascelles had about finished his house at Harewood; but, as we were told, was very unwilling to show it, or have it seen by almost any body. We stopped at the village of Harewood to have some tea. Reay asked the landlady whether we could be permitted to see the house. She said, perhaps we might if we were persons of quality. Reay then said, 'If that's so, there is no obstacle to our seeing it,' and said he was Lord Folkestone, and I was the Hon. Mr. Fortescue. She then told him that he must send a note, stating who we were, to a Mr. Poppleton or Popplewich, a steward of Mr. Lascelles's, expressing our wish to see the house. That gentleman sent a very civil answer, allowing us to see the house, regretting that he could not immediately wait upon us, especially as he had the honour of the acquaintance and the highest regard for the Earl of Radnor, Lord Folkestone's father. We went to the house, and, after seeing a part of it, the woman who was going through the house with us (an old lady in full dress), said that she had also a note from Mr. Poppleton or Popplewich, stating his anxiety to see Lord Folkestone, the son of his friend the Earl of Radnor. Soon afterwards she looked out from the window, and said to Reay, 'Oh sir! here is Mr. Poppleton or Popplewich, coming to see your lordship.' 'Coming to see me?' said Reay, 'then here am I going, that I may *not* see him.' We immediately went down stairs, got into our hackney chaise, and drove away, passing and taking our hats off to that gentleman, who had no suspicion that Lord Folkestone and the Hon. Mr. Fortescue

were in a dirty Leeds hackney chaise. I think it was Sir Robert Chambers who told me that Mr. Lascelles had afterwards heard of this, and said that as such pranks could be played, it was as well that he should let his house be seen by every body; and accordingly it was opened once a week for the inspection of the curious at Harrowgate, and all others who wished to see it."

The Anecdote Book gives the following account of a piece of boyish drollery practised by Reay, upon one of those aspirants who court immortality by writing their names and their nonsense upon the glass of inn windows:—

"Reay and I went up from Oxford to London together. We dined at March's, Maidenhead Bridge, and upon the window Reay observed, that a person of Chipping Norton, whose name I now forget, had written that he dined there on a leg of mutton, upon a day and year mentioned in what was written. When we got to the Somerset Coffee House, Reay sent him a letter, stating that as he had thought it important to inform the public that he had dined at Maidenhead Bridge, and upon a leg of mutton, he must have expected that some of the public would enquire how the mutton had agreed with him; and he therefore took the liberty of sending such an enquiry, from his friend Tom Comical. Next day he sent him a double letter, hoping that, as probably he had potatoes with his mutton, *they* had not disagreed with him. Two days afterwards he sent a treble letter, representing that as his friend Tom Comical had received no answer to his enquiry how the mutton and potatoes had agreed with him, he had

probably made a mistake, and should have enquired how the mutton and French beans, or some other vegetables had agreed with him, and assured him that he should repeat his kind and anxious enquiries every day till his answer came. We were soon afterwards obliged to return to college, and, stopping at March's, we found that the pane had been taken out of the window and a new one put in its place. Whilst we were looking at the window, old March came in, and, observing us, he said, 'Ay, ay, one of you must be the gentleman that sent the person who has been here from Chipping Norton so many letters. Poor man! he came all the way from Chipping Norton, twenty miles on the other side of Oxford, and insisted upon seeing the pane of glass, the leg of mutton, and all the rest, taken out of the window, and a new pane put in, before he would eat a morsel.'"

CHAPTER III.

1772, 1773.

NAME AND FAMILY OF SURTEES. — MISS ELIZABETH SURTEES, AFTERWARDS LADY ELDON. — LETTER FROM JOHN SCOTT IN LOVE. — HIS COLLEGE COMPANIONS. — ANECDOTES. — MUSIC, DANCING, THE OPERA. — LOVERS OF MISS SURTEES. — LETTER FROM (SIR) WILLIAM SCOTT. — ELOPEMENT. — RECEPTION OF THE NEWS IN LOVE LANE. — MARRIAGE IN SCOTLAND. — SOJOURN AT MORPETH. — COMMUNICATIONS TO AND FROM NEWCASTLE. — LETTER FROM JOHN SCOTT EXPLAINING THE REASONS OF THE ELOPEMENT. — FORGIVENESS, REMARRIAGE, AND SETTLEMENTS. — CIRCUMSTANCES AND PROSPECTS OF THE YOUNG COUPLE.

THE year 1772, the year of Mr. John Scott's majority, may be considered the most important of his life, as having been that of the marriage which gave the colour to all his after days.

The lady of his choice, Miss Elizabeth Surtees, of whom the reader has had a glimpse at the Newcastle ball, as one of the partners of the Duke of Cumberland, was the daughter of Aubone Surtees, Esq., a banker of that city. "The name of Surtees," says the present Lord Eldon, "is derived from the river Tees. Dugdale observes, 'rivers have imposed names to 'some men, as they have to townes situated on them, 'as the old Baron Sur Teys, that is on the river Teys.' The Surteeses of Newcastle are descended from Edward Suerties, of Broad Oak, Gent., who married Margaret Coulson, nicce and heiress of Robert Suerties, in 1599 Alderman of Durham. They are

considered to be a younger branch of the family of Surtees of Dinsdale, in Durham, on the banks of the Tees, who held the barony of Gosforth in the reign of Henry I., until, in the beginning of the 16th century, the heirs male of the whole blood became in the elder branch extinct, and Gosforth passed into the hands of the Brandlings, by marriage with an heiress of the Surtees family."

Mr. John Surtees, Lady Eldon's brother, says in a letter to a relation, that "in the time of Edward the Third, the family of Surtees represented the county of Northumberland, were sheriffs afterwards for Northumberland, and members for Newcastle." He adds, "My father's elder brother, my father, and my brother William, were all, in succession, receivers general for Northumberland and Durham. Of my father's personal character, I cannot say too much good. Sir Walter Blackett and he were the two most beloved men I ever knew in Newcastle. Both died fathers of the corporation. Many years before his death, my father was dangerously ill, and a clergyman, then on a visit at Newcastle, told me, some years afterwards, that he had never seen any man receive such tokens of affection and respect as he did on that occasion, for that the whole town appeared to have only one topic of conversation, one object of interest, his health."

According to Lord Eldon's own account, it was at the church of Sedgefield, in the county of Durham, that he first saw Miss Surtees. In or near that town, her father's sister, Miss Frances Surtees, was living, and the young lady may probably have been on a visit to this relative; but what accident brought

Lord Eldon, then Mr. John Scott, to Sedgefield, or how it happened that the young people, both natives of Newcastle, had never met in their own neighbourhood, is not now known.

A considerable part of the year 1772 was passed by Miss Surtees with her uncle Mr. Stephenson, whose town residence was in Park Lane, and who rented, in the country, the rectory house of Taplow, near Maidenhead. During her visit in Park Lane, she was much noticed by the then Duchess of Northumberland, who would sometimes take her by the arm at Northumberland House, and present her to the guests as "my Newcastle beauty." Her naturally retired habits made her shrink a little from the observation thus brought upon her; but she continued gratefully sensible, throughout her life, of the unvarying kindness evinced by the Northumberland family to herself and to Mr. Scott in every stage of their career. A letter of his from Oxford, undated, but apparently written 20th May 1772, to Mr. Reay, then in London, indicates that Miss Surtees was now occupying a considerable space in his thoughts. It is a characteristic specimen of his turn of mind in those early days.

"Mon cher Ami,

"After having suffered in a very high degree what the Latins call *desiderium*, and which, from the similarity of the feeling, though excited by different causes, I presume to translate Gateshead-Fellianism,—after being almost choked with dust, and suffering other inconveniences too numerous to be related, we at length arrived once more upon this classic ground. Sad exchange of Ranelagh for the High Street, of dominos for gowns and caps, of a stroll in Hyde Park,

comitante Surtesiâ, for a trot up the hill with the *bussar!* For your satisfaction, however, give me leave to inform you, that we both enjoy health of body, though strangers to peace of mind, and wear clean shirts, though we have not a guinea! As Fisher and I were reduced to a melancholy duet by the departure of Haverfield, we found no small pleasure in having an accession to our party by the arrival of Ridley and Young. As the latter has not opened his mouth nor his eyes since he came, though to my certain knowledge the bell has rung thrice a day, we yet consider ourselves as but a trio. Harry, whom nature formed in a very philosophic mould, and endued with such a seeming indifference to *place,* that one should conclude she intended him for a citizen of the world, expresses but little regret upon the occasion, and accommodates himself with great facility to the collegiate plan. How happy would it be for those, who are doomed to drag on a few more years here, if they could acquire this blessed versatility, and thus calmly acquiesce in what they cannot avoid!

"I was about to begin my lamentations upon the invisibility of a certain fair one, but I am determined to check my inclination. If I do not take the advice contained in that salutary aphorism, 'Obsta principiis,' the subject is so favourite an one, the theme so much my darling, that I generally forget that there is something impertinent in *boring* others upon topics indifferent to them, however interesting to yourself. If you have experienced this from me, I know you will make charitable allowances. I confess my weakness and will guard against it.

"The Count of the Flaxen Empire intends visiting this seat of literature: I shall have the honour, I suppose, of escorting his mightiness around this place. His Burgundy must suffer for this in the long vacation. As to the dear little tygress of Taploe, I will not flatter myself with the hopes of seeing her, where a disappointment is so probable.

"I had some thoughts of delivering your compliments to the Countess of the Hill *en passant,* but I was deterred by considerations of propriety, nor was I certain how far the

awkwardness of a fellow of a college might have been detrimental to the interests of his friend with the lady.

"Come in! — 'tis the little barber; which puts me in mind that I left the gentleman of Tanfield Court without paying him. It was his own fault; however, pray inform him that after our next charity sermon, he shall have his share of the collection: *i. e.* when I come to town again I will pay him: or, if he is in any great hurry for the cash, if you will ask him what sum his honour will be satisfied with, I will send it him by the first opportunity.

"Pray remember me to Bunney, Lane, &c.: and if invisibility become visible, then remember me, who am, with great sincerity,

"Your affectionate friend.

"J. SCOTT.*

"Univ. Coll. Wednesday."

Bunney, commemorated in this letter, took the name of Hartopp on his marriage, and was created a baronet in 1796. The motionless man appears to have been the Mr. William Young, who was afterwards a baronet and member for St. Mawes. Haverfield was long

* NOTE BY THE PRESENT EARL. — The Count of the Flaxen Empire may mean Mr. Aubone Surtees, whose hair was very light, and the reference may be to some intention of his to visit the south in order to take his daughter, Miss Surtees, home from Taplow to Newcastle; and Mr. John Scott's fear seems to be that he will not bring the lady with him to Oxford, but will come to that University before he goes to Mr. Stephenson's at Taplow for her.

"The Countess of the Hill," refers to the Lady Mary O'Bryen, Countess of Orkney in her own right, who resided at her family seat, Taplow Court, Bucks, the house being situated on very high ground, and visible from the road which leads from London by Henley to Oxford. The Countess was at this time the wife of her cousin Murrough O'Bryen, afterwards first Marquess of Thomond; and the lady in whom Mr. Reay is jestingly supposed to have an interest, was the Lady Mary O'Bryen, in the 17th year of her age, who afterwards succeeded her mother as Countess of Orkney.

remembered in Lord Eldon's circle, as having executed a picture, or drawing, which represented seven companions, including John Scott. It had the honour to hang in a room where they were in the habit of meeting; but Lord Eldon used to observe, that it was a piece of art which did not stand high in public estimation: for, said he, "when the furniture of that room was brought to sale by auction, the auctioneer, with all his eloquence, could induce no one to bid more than three-pence halfpenny: not very encouraging to any feelings of personal vanity we might have, being at the rate of one halfpenny for each of the seven."

Ridley has already had a full introduction to the reader. Fisher was the companion of Scott, when, as the latter used to relate, the two young collegians, having come from Oxford to London for a day or two, paid a visit to the opera, and both fell asleep. Scott, however, had this advantage, that he began his nap after his companion, and awoke before him. This enabled him to divert himself at the expense of the other, whom he rated for his want of musical taste, till, having indulged in the rally to his full content, he confessed with a laugh that he also had been guilty of the same barbarism. He then composed himself for another nap, begging that if he should be still asleep at the commencement of the dancing, Fisher would wake him. He used to admit very fairly, in his maturer years, that the opera afforded him no amusement; and told the present Lord Kenyon, that he found it indeed "opera atque labores." In the great case of the Opera House, which was depending for many years before

him when Chancellor, an application was made, for the determination of which it became necessary to enquire into the proper rate of remuneration to be allowed for certain principal singers, and especially for Madame Catalani: and in pronouncing his order he said, jocularly and by the way, that for his own part he would not give five shillings to hear her sing for six months together. This dictum brought many jibes upon him from his lady friends, who showed him as little mercy as he had himself extended to Fisher. One day, being hard pressed, he answered slyly, "Well, I don't deny having said so; but which "of you would listen, on any terms, to the best singer "in the world '*for six months together?*'"

It was believed in Miss Surtees's family that the object of her parents, in sending her from Newcastle to her uncle Stephenson, was to put her out of Mr. John Scott's way: but it has been seen that the young lover, even when in London, contrived to keep up his interest with her, by occasionally joining her and the other ladies of Mr. Stephenson's family, during their walks in Hyde Park. "I suspect," says Mr. John Surtees, her brother, "that at home their flirtations had been chiefly on the Shields Road, where she used to ride attended only by a man-servant. The riding scheme, I think, began in this way. Sir Walter Blackett, popularly called the King of Newcastle, then, I suppose, seventy years of age, used to lend Lady Eldon a handsome pony, and to accompany her on horseback. He was called to London to attend Parliament, and died some time after. She, riding one of my father's horses, continued her

rides as before, and Lord Eldon used, I believe, to meet her. Young as I then was, both from my own observation and what I learnt from others, I cannot doubt that Lady Eldon had made considerable impression on the mind of Sir Walter. She was handsome, silent, and reserved; and perhaps her reserve, in his eyes, was one of her charms. He was a widower, without an heir to inherit his large fortune, great part of which was entailed on Sir Thomas Wentworth (afterwards Blackett) whom he hated; and it is probable that those circumstances, connected with his extreme attention, might, without other reason, have given rise to the report that he was about to pay his addresses to her. He stopped a long time at my father's house in his way to London, and whilst his carriage was waiting for him there, much gossip was going on, in my father's house and in the street, on the subject of Sir Walter and my sister.

"I do not believe that he paid his addresses to her, nor do I believe that she ever considered him in any other light than that of a benign old man, very kind to her. Had it been otherwise, my sister Fanny being in London, she would have made me her confidant on this as on other occasions.

"Of this Sir Walter there is an anecdote, which I remember Sir Matthew Ridley told at Blagdon, and which, as he justly observed, proved the great strength of Sir Walter's constitution. On some occasion he gave a great dinner, probably before some election. Oceans of wine were drunk, and no man quitted his house 'either sorrowful or sober.' Sir Walter, from feverish heat occasioned by the wine

he had drunk, could not rest in his bed. He soon quitted it, and walked as well as he could into his pleasure ground, and threw himself on a bench. There he lay till morning: when he found that his shirt was actually *frozen* to the bench on which he lay. He was without other dress than his shirt and nightcap. His health was uninjured.

" Sir Matthew, on another occasion, mentioned that he called upon Sir Walter, then on his bed of death, and was quite shocked to see a man once so popular, in a state so forlorn and derelict, without a relation or friend in the house to soothe his last moments, and apparently neglected by servants who had spent their lives in his service.

" About this time, perhaps a little before it, a Mr. Spearman, a young man of signal talents, and, like many other men of great imagination, eccentric and flighty, proposed to my sister Elizabeth in a letter, sent by his servant. The servant was detained a few minutes, and a negative was written and sent by him. He had a considerable landed property in the county of Durham, and was author of one of the best election papers I ever read. Spearman I never saw but once, and then he was strutting before my father's house in a black coat richly embroidered with silver lace."

Mrs. Ridley, Lady Eldon's younger sister, used to speak of a Mr. Errington, another gentleman of large fortune in Northumberland, who made a proposal to her father for Elizabeth, and was rejected by her for the sake, probably, of Mr. John Scott. The gentleman does not appear to have been inconsolable: for on hearing that the eldest sister had declined the honour

intended for her, he intimated to the father that, under these circumstances, he should not object to take the younger. The younger, however, was not to be thus summarily disposed of, and the negotiation was a total failure.

Miss Surtees had no fortune of her own; and Mr. John Scott had nothing to maintain her with, except his industry and talents. In such circumstances, it was natural that the parents of both parties should disapprove the match; but the following letter, from William to his father, indicates that Mr. Scott was willing to concede much for John's happiness.

Mr., afterwards Sir, William Scott, to his father.

"Dear Father, "Oct. 25. 1772.

"I returned to College last night, a few days sooner than I intended, on Chambers's account, who labours under the same indisposition which confined him at Newcastle.

* * * * * *

"In a letter from Jack, I find that you are now fully acquainted with the affair between Miss Surtees and himself, and that you are kind enough to forgive an indiscretion which a rigid prudence might perhaps condemn. I must own, I am clearly of opinion that in consenting to his wishes you act with a true paternal regard to his happiness, which, as far as I can judge from my own experience, would not be much promoted by a long continuance in college. The business in which I am engaged is so extremely disagreeable in itself, and so destructive to health (if carried on with such success as can render it at all considerable in point of profit), that I do not wonder at his unwillingness to succeed me in it. The kindness of his friends, therefore, would be very judiciously employed in providing for him in some manner more agreeable to his own inclinations, and more consistent with his health. The purchase of a next presentation to a living is the most obvious way of giving him an early settlement. If

J. M. Richardson del. A. Picken lith. Day & Haghe Lith.rs to the Queen.

HOUSE of Mr. SURTEES at NEWCASTLE, from which Mr. JOHN SCOTT afterwards LORD CHANCELLOR ELDON, carried off his Bride.

London, Published by John Murray Albemarle Street 1844.

you determine upon this method, the sooner we make the necessary enquiries the better. If you will give me leave, I will endeavour to procure what information I can."

* * * * * *

Still, however, the courtship remained either uncommunicated to, or discountenanced by, the lady's parents, who seem to have been pressing her to some more ambitious match: and the young people soon came to a conclusion that it was necessary for them to take a course of their own. Miss Surtees therefore made up her mind to a decisive measure; and, on the night of the 18th of November 1772, descended by a ladder into the arms of her lover, from a window of her father's house in the Sandhill, Newcastle.

The intelligence of their elopement came upon the different members of the family in Love Lane, through various channels and with various effects. John had disclosed his intention to his sister Jane; from whom the elder sister Barbara received the intelligence on the very night of the event. Mr. William Scott, their father, did not learn what had happened till the morning. The following is a minute made by Miss Forster, of her own dialogue upon these matters with her great aunt.

Miss Scott (*Barbara*). — The night that Jack ran away to Scotland, I knew nothing about it; but Jenny had scarcely got into bed before she took to sobbing and crying at such a rate; I could not tell what was the matter. At last she said, "Oh Babby, Jack has run away with Bessy Surtees to Scotland to be married — what will my father say?" — You may be sure there was no sleep for us that night. I was not over well pleased either, that Jack had told Jenny, and *not*

told *me:* however, when he came back he said he wanted to tell me, but could not find an opportunity. We talked and we cried all that night.

Miss Forster. — Well but, aunt, what said my grandfather?

Miss S. — Well, you may be sure we went down to breakfast all trembling: but we had bathed our eyes, in cold water, and composed ourselves as we best could — and when my father came in, there was a letter lying, from Jack, which he read, and put into his pocket, and said never a word about it: so we were left to guess what was to be done.

By this time, however, the lovers were beyond pursuit. They had travelled all night; and now, on the morning of the 19th of November, they reached a village called Blackshiels, which lies close to Fala in Scotland, and is the last posting stage on the road from Newcastle, by Morpeth and Coldstream, to Edinburgh. At Blackshiels they halted; and were married there by a minister of the Scottish church.

The certificate of this marriage was found among Lord Eldon's papers after his death, and is in the following words: —

"John Scott of the parish of All Saints in Newcastle-upon-Tyne, Gent., and Elizabeth Surtees of St. Nicholas parish in the same town, spinster, were married at Blackshiels, North Britain, according to the form of matrimony prescribed and used by the church of England, on this nineteenth day of November, 1772, by

"J. BUCHANAN, Minister.

In the presence of { James Fairbairn. / Thos. Fairbairn."

The lady, who had only on the 23d of the preceding month completed her eighteenth year, is said to have been extremely attractive, both in countenance and in figure. Her form was slender and her step light: and even in advanced age she retained much of her youthful symmetry, though she never showed the least inclination for personal display, continuing throughout her life to wear her hair powdered, and adhering in most other particulars to the style of dress which had been prevalent in her early days.

The marriage having been solemnized, the young couple hastened back from Scotland; but when they arrived at Morpeth, which was late in the evening, the inn there, the Queen's Head, was full: and they obtained their wedding-night's lodging only by the especial civility of Mr. and Mrs. Nelson, the landlord and landlady, who gave up their own room. The great anxiety of Mr. and Mrs. John Scott was now for an answer to the letter which he had addressed to his father; and they stayed a day or two, awaiting the result, at the Queen's Head. "The bride," says Miss Forster, "used to describe this period as the most miserable part of the whole business. Their funds were exhausted, they had not a home to go to, and they knew not what their friends would say. In this mournful dilemma, she suddenly espied from the window a fine large wolf dog called Loup, walking along the street: a joyful sight, for she felt assured a friend was near: and, in a few minutes, my grandfather, Mr. Henry Scott, entered the room, bringing with him the forgiveness of his father Mr. Scott, and an invitation for the youthful bride and bridegroom to Love Lane, which was gladly accepted."

The friends of both parties, however, were greatly chagrined by the match. "Jack Scott has run off "with Bessy Surtees," exclaimed Mr. Moises, "and "the poor lad is undone!" The father of the bride was so much displeased, that for some time he would not even speak to the bridegroom's father, with whom he had before been on friendly terms. The latter, having an impression that Mr. Surtees was not really a man of so large a fortune as he wished to be thought, and that he was willing to part with but little of what he might really possess, went up to him one day on the Exchange, saying, "Mr. Surtees, why should this "marriage make you so cool with me? I was as little "wishful for it as yourself; but, since what is done "cannot be undone, for every hundred pounds you "put down for your daughter, I will cover it with "another for my son."—"You are too forgiving, "Mr. Scott, you are too forgiving," was the answer: "that would be rewarding disobedience."

It has been said upon highly respectable authority, that, at the anxious and critical period which immediately followed his marriage, Lord Eldon had a narrow escape from being a grocer. The particulars, as related in the Oxford Herald of 28th January, 1838, are, that a worthy and wealthy grocer of Newcastle, who had no children of his own, paid a friendly visit to Mr. Scott the elder, upon his son's marriage, and, after expressing an apprehension that Mr. Surtees would never forgive either his daughter or John Scott, proposed to take John into partnership; that Mr. Scott deferred his answer till he should have received a letter which he was expecting from William; and

that William's letter determined the answer in the negative.

The letter, from which the following passages are extracted, was addressed, in the earlier part of December, by the young bridegroom to his friend Reay at Oxford.

"My dear Reay,

"It gives me some satisfaction to find that, amidst the censures of those whose frowns I despise, and the applauses of others, whose good opinion I am not very anxious to secure, a change of life on my part has not been attended with a change of sentiments on yours. Those, who knew me not, were at liberty to deal out their plaudits, or express their disapprobation, in as strong terms as they pleased, and whilst I expected, from impertinent ignorance or morose old age, reflections upon my honour and my prudence, I was contented that the latter should be suspected by those friends, whose knowledge of me would lead them without hesitation (I flattered myself) to believe that I had acted with an unremitting attention to the former. *Virtute meâ me involvo:* and I can with the greatest confidence retire, from the harsh criticisms of a world which must ever remain ignorant of the justifying circumstances, to a heart, which will never reproach me. I hope I shall not be suspected of vanity, if I assert that no man, who knew me thoroughly, would condemn me as consulting only the gratification of a boyish passion."

After pleading the long attachment of himself and his bride, he discusses the natural question, "Did not prudence suggest that this connection should be deferred?" and the observations which then follow tend to confirm the conclusion that there were, about this time, one or more other suitors for Miss Surtees's hand, who in her opinion could not easily be got rid of by any measure short of the step which was actually taken by her. He was reduced, he says, to the neces-

sity of forming the connection at this time, or bidding farewell to the lady for ever. After a few other observations in support of the course thus taken, he proceeds:—

"You have long known me, Hal; you will not suspect me of dissimulation, if, where there is so little occasion for any other arguments to disarm you of any suspicions with respect to the rectitude of my conduct, I farther assert, in general terms, *that I have only acted the unavoidable part:* I cannot honourably descend to such particulars as may prove the truth of the assertion. I should not have said so much, if I had not been writing to a person whose behaviour has endeared him to me so greatly, that I should be uneasy under his disapprobation.

"Such are the motives upon which the scheme was undertaken: it was executed with some wonderful escapes, and exhibits, in my conduct, some very remarkable generalship: I eluded the vigilance of three watchmen stationed in the neighbourhood, without the assistance of a bribe; and contrived to be sixty miles from Newcastle before it was discovered that I had left the place. My wife is a perfect heroine, and behaved with a courage which astonished me. In truth, *fortes Fortuna juvat:* how else can I account for the first intimations about a scheme which I should not have dreamt would ever have been thought of,—the success of a plan seemingly impracticable,—and the ready forgiveness of those whom I expected to have found unrelenting?—I have now, Reay, bid adieu to all ambitious projects, because my highest ambition is gratified: though a husband, I am yet so much of a lover, as to think the world well lost, whilst I retain the affections of one woman, the esteem of a few friends, and the good wishes of Reay. Some of the good folks here, as you surmised, had starved me, out of pure pity: but though I shall not expire by a surfeit, I think I shall scarce die of hunger.

* * * * * *

"With respect to your being a candidate for my fellowship, the college will suffer no loss by my imprudence, if I have

such a successor: I expect to hear from you again soon: in the mean time, believe me to be, dear Reay,

"Your sincere friend, and

"(Upon your mother's authority)

"Your affectionate cousin,

"J. SCOTT.*

"Wednesday."

In a little while Mr. Surtees began to relent, and a letter of forgiveness was despatched to the bride, through her brother John, who writes this account of its results: —

"I received the letter of peace from my father or mother, I forget which, and, I suppose, in answer to a supplicatory letter from the bride. She threw her arms about me in a transport of joy, and kissed me for a considerable time, without intermission. They immediately after quitted their father's house, took up their abode with my father, and stayed there till they removed to Oxford."

On the 7th of January 1773, Mr. Surtees and Mr. Scott entered into articles, to which the young couple were parties, and by which Mr. Surtees covenanted to pay to Mr. John Scott 1000*l.* as the portion of his daughter, with 5 per cent. until payment: and certain trusts were therein declared of a sum of 2000*l.*, for which Mr. Scott had given his bond to the trustees as the portion of his son. Some years afterwards, on the 17th of August 1781, another instrument was executed, by which Mr. Surtees bound himself to pay a second portion of 1000*l.* in addition to the like amount settled by him in the before-mentioned arti-

* The letter is endorsed, "Rec[d] at Oxon. Dec. 13. 1772." This brings the date to the 9th.

cles. Each of these two sums carried interest at 5 per cent.

In order to give a higher sanction to the union of the young couple, it was arranged that a marriage should be solemnized between them in the parish church, of St. Nicholas, Newcastle. It was accordingly celebrated there by licence on the 19th of January 1773, the ceremony being performed by the Reverend Cuthbert Wilson, and the witnesses being Mr. Surtees the elder, and Henry Scott, the bridegroom's brother. The following is a copy of the register:—

"John Scott, and Elizabeth Surtees, a minor, with "the consent of her father Aubone Surtees, Esquire, "and both of this parish, were married in this "church by licence, the nineteenth day of January, "1773, by me,

"CUTH. WILSON, Curate.

"This marriage was solemnized between us,

"JOHN SCOTT, and "ELIZABETH SURTEES. } In the presence of us, "AUBONE SURTEES. "HENRY SCOTT."

The ceremony being completed, Mr. and Mrs. John Scott stepped into the chaise which waited for them at the church door, and set off on their way to Oxford.

"I remember," says Mr. John Surtees, in a communication transmitted to his niece, Miss Ridley of Battersea, for the present work,—"I remember, while they were living with us after their marriage, Lord Eldon gaily observing, that he had been very susceptible: that Miss Allgood, daughter of Sir Launcelot

Allgood, was his 'first flame,' but that she was scornful." Mr. Surtees adds, "She and your very dear mother (Mrs. Ridley) used to correspond, though she, Miss Allgood, was a few years older than either of my sisters. Lady Eldon had no female friend: your mother had many. Lady Eldon, your mother, Matt, and I, the four youngest, formed a circle of our own, and I well remember Lady Eldon telling me, that she would impart to me a great secret, if she did not fear that her confidence might get me into a scrape.

"I remember Lord Eldon taking me on his knee, a few days before he left my father's to reside in Oxford, and saying that he had two strings to his bow: that if a University-College-living fell vacant in the course of the year, he should accept it; but that he would apply himself to the law as a last resource, if the church failed him. I remember also he wrote a letter to my brother Matt, then about to leave school, and to go to Oxford with the intention of entering into the church. In that letter he stated that it had then become necessary that he should renounce 'his first mistress,' the church, and pursue a profession which had much less of his affection and respect; but that if fraud might be effected by the agency of one man, it might be defeated by the instrumentality of another. These sentiments were very feelingly and gracefully expressed, and I repeat this language feebly and clumsily. It is near 70 years since I read the letter."

Mr. Matthew Surtees's widow records that "she heard her husband say he spent a five-guinea piece which his uncle and godfather had given him as a keepsake (all the money he could command), to buy some

spoons, which he gave to Lord Eldon as his marriage gift."

Such were the circumstances of a marriage, which eventually, by obliging Mr. Scott to vacate his fellowship, precluded him from any prospect of preferment in the church, and determined him to the study of the law. "Having then," says Lord Eldon in the Anecdote Book, "the world before us, and, as it proved, a most kind Providence my guide, I gave up the purpose of taking orders, and entered as a student in the Middle Temple, in January 1773." His admission bears date the 28th of that month, and is in these words:—Die 28 Januarii 1773, Mar. Johannes Scott, filius tertius Gulielmi Scott de Novo Castello super Tinum Armigeri, admissus est in Societatem Medii Templi Londini specialiter.* Et dat pro fine 4*l.*"—His relinquishment, however, of "the purpose of taking orders," was then but inchoate: for though the marriage placed him under a necessity of vacating the fellowship at the end of twelve months, yet, during that intermediate time, which is commonly called the year of grace, he still held the fellowship, with the option of accepting any college-living which might come to his turn within that period. The whole of that year was, however, assiduously devoted by him to his legal studies, with the view he had before expressed, of having two strings to his bow.

* Members admitted "specially" at a fine of 4*l.*, were exempt from some inconvenient observances.

CHAPTER IV.

1773—1775.

RELINQUISHMENT OF FELLOWSHIP AND THE CHURCH FOR THE STUDY OF THE LAW. — RESIDENCE OF MR. AND MRS. JOHN SCOTT AT OXFORD. — HIS RECOLLECTIONS OF DR. JOHNSON. — BIRTH OF A SON. — LETTERS OF JOHN SCOTT TO HIS FAMILY. — LECTURES AND ANECDOTES. — HIS RECOLLECTIONS OF SERJEANT HILL. — JOHN SCOTT'S INCOME, LABOURS, AND HEALTH. — HIS FIRST ESTABLISHMENT IN LONDON. — PUPILAGE WITH MR. DUANE, THE CONVEYANCER.

ON the 13th of February, in the year 1773, he took his degree as Master of Arts: and, happily for his fame and fortune, the twelve months of grace passed away, without the falling in of any benefice to tempt him back from the pursuit of the law. Neither his Scotch nor his English marriage appears in the records of University College; but, on the 19th of November 1773, the anniversary of the earlier ceremony, he gave up his fellowship, in which he was succeeded by his friend Reay. His resolution to study the law is said to have been first adopted at the suggestion of his wife's father, who had a high opinion of his qualifications for the Bar.

For the greater part of the three years, which, by the regulations of the Middle Temple, were required to intervene between the admission of the student into the Inn, and his call to the Bar, Mr. and Mrs. John Scott continued to reside in or near Oxford, though, for the purpose of keeping his terms, he had

to visit London four times a year. During one of these visits, he wrote the following cordial letter to the lady whom his brother Henry had just married.

Mr. John Scott to Mrs. Henry Scott.

"Madam,

"I flatter myself it is unnecessary to tell you, that I experience a particular satisfaction in having an opportunity of addressing you as my sister. I cannot see, without great pleasure, an event take place, which has long engrossed all my brother's wishes, and which I have for some time considered as essential to his happiness. You will acquit me of any undue partiality, if I add that a thorough knowledge of my brother's disposition makes me confident that *your* felicity will be in some measure augmented by an union with a person who will pay an unwearied attention to you: an attention cheerfully exerted by one party, and in every way due to the other.

"I cannot but regret that it is so improbable that it will soon be in my power to assure you in person, how happy I am to subscribe myself,

"Your affectionate brother,

"J. SCOTT.

"London, 17th June, 1773."

Mr. John Scott, shortly after his own marriage, had said, in a letter to Mr. Lane, a fellow-student of his at University College, who was then reading law in the Temple, "I have married rashly, and have neither house nor home to offer my wife; but it is my determination to work hard to provide for the woman I love, as soon as I can find the means of doing so." This led to a request from Mr. Lane that his friend would bring his bride to the house of Lane's father at Millend, Henley on Thames, now the residence of Mrs. Hind. The invitation appears to have been accepted soon after the arrival of Mr. and Mrs. John

Scott at Oxford. "The appearance of the lady," says Mrs. Hind in a letter dated October 1838, "was con-
"sidered at Millend to be Mr. Scott's sufficient apo-
"logy for the hasty step he had taken in marrying;
"for she was extremely beautiful, and so very young,
"as to give the impression of childhood, especially as
"her dress corresponded with that idea, the white
"frock and sash being, in those days, the distinguish-
"ing marks of a child, as well as the flowing ringlets
"which hung around her shoulders." Afterwards, according to the Rev. Mr. Brewster, "Mr. and Mrs. John Scott for some time resided at New Inn Hall. Sir Robert Chambers (also a native of Newcastle) was Principal of the Hall: he had been a fellow of University College, and was at that time Vinerian Professor of Law: about this period he was appointed one of the first judges that were sent to India: and was then on the point of removal. At that period New Inn Hall had no resident members except the Principal, who had been permitted to hold his situation for a few years during his proposed absence. In consequence of this, Mr. and Mrs. Scott were accommodated with his apartments for a time; and while I was resident at Lincoln College, I had the pleasure of paying them occasional visits."

Lord Eldon's Anecdote Book has the following reminiscences of Dr. Johnson at Oxford:—"I had a walk in New Inn Hall Garden, with Dr. Johnson, Sir Robert Chambers, and some other gentlemen. Sir Robert was gathering snails, and throwing them over the wall into his neighbour's garden. The Doctor reproached him very roughly, and stated to him that

this was unmannerly and unneighbourly. 'Sir,' said Sir Robert, 'my neighbour is a Dissenter.'—'Oh!' said the Doctor, 'if so, Chambers, toss away, toss away, as hard as you can.'"

"The Doctor was frequently, apparently, very absent. I have seen him standing for a very long time, without moving, with a foot on each side the kennel which was then in the middle of the High Street, Oxford, with his eyes fixed on the water running in it.

"If put out of temper he was not very moderate in the terms in which he expressed his displeasure. I remember, that, in the common room of University College, he was dilating upon some subject, and the then head of Lincoln College, Dr. Mortimer, was present. Whilst Johnson was stating what he proposed to communicate, the Doctor occasionally interrupted him, saying, 'I deny that.' This was often repeated, and observed upon by Johnson, as it was repeated, in terms expressive of increasing displeasure and anger. At length, upon the Doctor's repeating the words 'I deny that,' 'Sir, Sir,' said Johnson, 'you must have forgot that an author has said, 'Plus negabit unus asinus in unâ horâ, quam centum philosophi probaverint in centum annis.'"

Mrs. John Scott used to speak of Dr. Johnson's having drunk tea with her and her husband at Oxford, and to relate that she had herself helped him one evening to fifteen cups.

It was during the residence of Mr. and Mrs. John Scott at New Inn Hall, that their eldest son John, the father of the present Earl, was born, on the

8th of March 1774. In an illness which hung about Mrs. Scott for a considerable time after her confinement, their medical friend, Mr. Nurse, lent them his house at Woodeaton: and though reputed a man of rough manners, he yet continued, as she and Lord Eldon ever testified, to attend her with the kindest care, declining all remuneration.

Mr William Scott to his brother Henry.

"May 17. 1774.

"Jack's wife has had a melancholy time, but is now, thank God, in a fair way. Jack behaved to her with infinite tenderness, and she really deserves it, for she is an excellent wife, and makes him very happy under the inconveniences of a scanty income."

* * * * * *

Mr John Scott to his brother Henry.

"Dear Brother, "New Inn Hall, May 28. 1774.

"I am much indebted to you for your letters. Under the apprehensions of losing my wife, they relieved my spirits, though it was out of the power of man to raise them. I consider myself as particularly obliged to you for taking so much notice of us, at a time when any attention seems singular; my father never writing more than three lines, and my sisters having forgot that we are yet in the land of the living.

* * * * * *

"I hope once more to see you about this time two years, when I intend, if I can manage it, to come your circuit; and, in case of encouragement, I shall, some three years after that, perhaps settle in Newcastle."

* * * * * *

Mr. John Scott to Mrs. Henry Scott.

"My dear Sister,

"It is fortunate for me, perhaps, that the relation in which we stand to each other, by giving apologies an air of formality, should render them unnecessary; for in truth I am utterly at a loss for any which can atone for so long a silence. In one respect I consider myself as laudably singular: I am unwilling to give way to the prevailing mode of treating our nearest friends with the greatest indifference. I have been therefore somewhat desirous to send you a letter better worth your acceptance than I fear you will find this: but I shall be contented to be charged with dulness, if you acquit me of inattention.

"Indeed you cannot have so little candour as to expect any thing entertaining from so deep a retirement as this: and you will meet with very little which can repay you for calling off your attention from the active scenes at Newcastle, were I to give you a full and true account of all the transactions at our hermitage. As I find, by my brother's letter, that he frequently amuses himself with a gun, I take it for granted you are not troubled with those unreasonable apprehensions about his safety, which some of your sex indulge; and shall therefore, *unless you give me your orders to the contrary*, contribute to his participation of another dangerous but favourite exercise, by sending him a pair of skates. But as I consider you as fully vested with a right to control his inclinations in all these matters, I shall pay a due deference to your wishes, if you are pleased to communicate them. Mrs. Scott's affectionate compliments wait upon you. Do me the justice to believe, that I feel a real happiness in being able to style myself,

"Your affectionate brother,

"JOHN SCOTT.

"Woodeaton,
Sept. 26. (probably 1774.)"

The present Earl of Eldon gives the following particulars respecting the pursuits of his grandfather at this period of his life.

"During the years 1774 and 1775 John Scott held the office of a tutor of University College, but the late Dr. Fisher, then his colleague, informed me, that, to the best of his belief, Mr. Scott never did more as a tutor than attend to some members of the College, as his law pupils, while he resided at Oxford. He had no share of the emoluments, Fisher receiving one third, and William Scott, the senior tutor, receiving the other two thirds, and doing double work."

About this time, however, Mr. John Scott gave lectures on the law as deputy for Sir Robert Chambers the Vinerian Professor: and for this service he appears to have had 60*l.* a year. Talking to Mrs. Forster of these lectures, Lord Eldon said, — "The most awkward thing that ever occurred to me was this: immediately after I was married, I was appointed Deputy Professor of Law at Oxford, and the law professor sent me the first lecture, which I had to read *immediately* to the students, and which I began without knowing a single word that was in it. It was upon the statute of young men running away with maidens.* Fancy me reading, with about one hundred and forty boys and young men all giggling at the professor. Such a tittering audience no one ever had."

"The first cause I ever decided was an apple-pie cause: I must tell you of it, Mary. I was, you know, a senior fellow at University College, and two of the undergraduates came to complain to me, that the cook had sent them an apple-pie *that could not be*

* 4 & 5 Phil. & Ma. 8 ch.

eaten. So I said I would hear both sides. I summoned the cook to make his defence; who said that he always paid the utmost attention to the provisions of the College, that he never had any thing unfit for the table, and that there was then a remarkably fine fillet of veal in the kitchen. Now here we were at fault; for I could not understand what a fillet of veal in the kitchen had to do with an apple-pie in the Hall. So, in order that I might come to a right understanding of the merits of the case, I ordered the pie itself to be brought before me. Then came an easy decision: for the messenger returned and informed me, that the other undergraduates had taken advantage of the absence of the two complainants, and had eaten the whole of the apple-pie: so you know it was impossible for me to decide that *that* was not eatable, which was actually eaten. I often wished in after-life that all the causes were apple-pie causes: fine easy work it would have been."

"The first *real* cause I ever decided was at Doncaster. A matter had to come on there before the recorder, in which he was personally concerned, and he asked me to try it for him. Thus I decided a cause before I was a judge."

On the 13th of October 1774, Mr. John Scott took up his freedom of the corporation of Newcastle. His brother William had done the like on the 8th of October 1766.

The terms at the Middle Temple, and other Inns of Court, are kept by the actual presence of the student at dinner, in the Hall of the Society, for a certain number of days in each of twelve terms. Through the bans, thus published, the profession of the Bar is

espoused. In the years 1773, 1774, and 1775, when Mr. Scott was going through the requisite quarterly solemnities in London, the Leviathan of legal learning was Mr. Serjeant Hill, of whom the Anecdote Book has these characteristic notices: —

"Very shortly after I had entered Westminster Hall as a student, Serjeant Hill, who was a most learned lawyer, but a very singular man, stopped me in the Hall and said, 'Pray, young gentleman, do you think herbage and pannage rateable to the poor's rate?' I answered, 'Sir, I cannot presume to give any opinion, inexperienced and unlearned as I am, to a person of your great knowledge and high character in the profession.' 'Upon my word,' said the Serjeant, 'you are a pretty, sensible young gentleman; I don't often meet with such. If I had asked Mr. Burgess, a young man upon our circuit, the question, he would have told me that I was an old fool. You are an extraordinary sensible young gentleman.'"

"Mr. Serjeant Hill began an argument in the King's Bench, in my hearing, thus: — 'My Lord Mansfield and Judges, I beg your pardon.' — 'Why, brother Hill, do you ask our pardon?' — 'My Lords,' said he, 'I have seventy-eight cases to cite.' — 'Seventy-eight cases,' said Lord Mansfield, 'to cite! you can never have our pardon, if you cite seventy-eight cases.' — After the court had given its decision upon the case (which was against the Serjeant's client) Lord Mansfield said, — 'Now, brother Hill, that the judgment is given, you can have no objection on account of your client to tell us your real opinion, and whether you don't think we are right. You know how much we all value your opinion and judgment.'

The Serjeant said he very much wished to be excused, but he always thought it his duty to do what the court desired; 'and upon my word,' said he, 'I did not think that there were four men in the world who could have given such an ill-founded judgment as you four, my Lords Judges, have pronounced.'"

"When Mr. Hotham was made a Baron of the Exchequer, who had never had any business at the Bar, but who, by the effect of great natural good sense and discretion, made a good Judge, he gave, as usual, a dinner at Serjeants' Inn, to the Judges and the Serjeants. Serjeant Hill drank his health thus:—'Mr. Baron Botham, I drink your health.'—Somebody gently whispered the Serjeant, that the Baron's name was not Botham but Hotham.—'Oh!' said the Serjeant aloud, 'I beg your pardon, Mr. Baron Hotham, I beg your pardon for calling you Mr. Baron Botham—but none of us ever heard your name in the profession before this day!'"

To the foregoing story, which the Anecdote Book gives in two places, Lord Eldon appends this observation: "The Baron made an extremely good Judge. He had not much legal learning, but he had an excellent understanding, great discretion, unwearied patience, and his manners were extremely engaging: and, these qualities insuring to him, in a very large measure, the assistance of the Bar, he executed his duties, of a Judge, with great sufficiency."

It has been supposed that, at this period of Mr. John Scott's life, he was indebted to his brother William for an income in the nature of an allowance. This is an

error. He had loans from his brother, and probably presents; and his correspondence shows, that to the very end of his life he considered himself under deep obligations for his brother's early and unvarying kindness; but he told a familiar friend, not many years before his death, that he never had an allowance, except from his father.

His health was at first unequal to the severe labour which he imposed upon himself after his marriage: and his appearance soon betokened, that he was studying "not wisely, but too well." He used to relate that in 1774, when he and Mr. Cookson, another invalid, were returning to Oxford from Newcastle, where they had been to vote at the general election for Sir Walter Blackett and Sir Matthew White Ridley, the cook of the Hen and Chickens Inn at Birmingham, which they reached about eleven at night, insisted upon dressing something hot for them, saying she was sure they would neither of them live to see her again.—A medical friend thought it necessary to remonstrate with Scott, and enforce the necessity of some abatement in his severe application. "It is no matter," answered he: "I must either do as I am now doing, or starve." Pursuing the advice of Lord Coke, he read "non multa, sed multum." He rose at the early hour of four in the morning: observed a careful abstinence at his meals: and, in order to prevent the invasion of drowsiness, studied at night with a wet towel round his head. He was wont, in his later life, to recur to those days as not unhappy*, though laborious; but the next letter shows that his spirits were sometimes a good deal depressed.

* Law Magazine, No. xli.

Mr. John Scott to his brother Henry.

"My dear Brother, "Oxford, Jan. 2. 1775.

"As I think it is not a very good quality in a social creature to communicate his griefs, I have been very unwilling to write to you, when illness preyed so much upon my spirits that I could not but foresee that a gloomy strain of melancholy would sully every page of my sheet. But as the state of my body and soul are both considerably amended, as my spirits have resumed their wonted fire, I now venture to attack you, and will be presumptuous enough to hope you will think my letter worth receiving, particularly as it finds its way to you in a frank.

* * * * * *

"I suppose the din of politics is heard no more, and the brawls of drunken patriotism infest your streets no longer.

* * * * * *

"The scheme of voting according to the instructions of constituents appears to me, moreover, so fundamentally wrong, that if the rage of patriotism should continue another seven years, I believe I shall hazard a pamphlet among you: as I think it will be no difficult matter to prove that it has neither the authority of reason nor the sanction of law to support it."

As the time now approached when he was to be called to the Bar, it became necessary for him to provide himself with an abode in London. In his latter life, as he was one day passing through Cursitor Street with Mr. Pensam, his secretary of bankrupts, he pointed to a house in that street, and said, "There was my first perch. Many a time have I run down from Cursitor Street to Fleet Market" (then occupying the site which is now called Farringdon Street) "to get sixpenny-worth of sprats for supper." From that earliest of his residences, the following letter is dated: —

Mr. John Scott to his brother Henry.

"Dear Brother, "Cursitor Street, Dec. 5. 1775.

"I am at length settled in the circle of lawyers, and begin to breathe a little, after the laborious task of removing a family, which is a work as difficult as that of removing a mountain. You know, probably, that this is only a step preparatory to a settlement among you, which I begin to think is a prospect that brightens upon me every day. I have been exceedingly fortunate in forming my previous connections, as the object which I had most at heart I have obtained. The great conveyancing of your country is done by Mr. Duane: it seemed to be therefore a most desirable thing to be connected with him, as his recommendation and instructions might probably operate much in my behalf hereafter. The great fear arose from his never having taken any person in the character of a pupil before, and the apprehension, that if he should now break through a general rule, it must be on terms with which I could not afford to comply; but he has offered me every assistance in his power, and is so extremely ready to forward my schemes, as to declare himself contented with the satisfaction he will enjoy in contributing to the success of a person whom he is so uncommonly kind as even to honour. This conduct of his has taken a great load of uneasiness off my mind, as in fact our profession is so exceedingly expensive, that I almost sink under it. I have got a house barely sufficient to hold my small family, which (so great is the demand for them here) will in rent and taxes cost me annually sixty pounds. I thank God it will be only for two years at most. I have been buying books, too, for the last ten years, and I have got the mortification to find, that before I can settle, that article of trade, for as such I consider it, will cost me near two hundred pounds:—not to mention the price of a voluminous wig.

* * * * * *

"I do not see your name among the addressers: surely the friends of government are more numerous among you.—We addressed from Oxford; that is, I gave it neither countenance nor opposition, for I do not care sixpence about the

matter, though I think, in point of law, the Americans are wrong, and do not see any alternative but to conquer or separate entirely from them. This is only between you and me," &c. &c.

A little more than a fortnight before his death he was speaking to Mr. Farrer, the Master in Chancery, of this period of his life. "I was for six months," he said, "in the office of Mr. Duane the conveyancer. He was a Roman Catholic, a most worthy and excellent man." Referring to Mr. Duane's liberality in taking him without a fee, Lord Eldon added, "That was a great kindness to me. The knowledge I acquired of conveyancing in his office was of infinite service to me during a long life in the Court of Chancery.

In the same conversation, he told Mr. Farrer that he had never been in the office of any special pleader or equity draftsman. "How then," asked Mr. Farrer, "did you acquire your knowledge of pleading?" "Why," answered Lord Eldon, "I copied every thing I could lay my hand upon." Two large volumes of precedents, thus copied by him, he lost, and would often regret. He supposed he had lent them to some friend, but could not recollect to whom. Of such borrowers, he would sometimes say, "that though backward in accounting, they seemed to be practised in book-keeping."

CHAPTER V.

1776—1780.

CALL TO THE BAR. — FEES. — DEATH OF MR. SCOTT, SEN. — HIS WILL. — OLD STORIES OF WESTMINSTER HALL. — DR. HEBERDEN. —NORTHERN CIRCUIT. — JOHN LEE. — ANECDOTES. — LORD MANSFIELD'S LEVEE. — NEWSPAPERS. — LORD C. J. DE GREY. — LETTERS OF WILLIAM AND JOHN SCOTT. — RIOTS.

It was in Hilary Term 1776, on the 9th of February, that Mr. John Scott was called to the Bar by the Honourable Society of the Middle Temple. The Society's books contain the following entries of the proceedings of their parliaments: —

"At a parliament holden the twenty-fourth day of November 1775, Mr. Scott, J. proposed by Mar. Gibbon is for their Masterships' consideration if they will be pleased to call him to the degree of the Utter Bar.

"At a parliament holden the twenty-sixth day of January 1776, the petition of Mr. Scott, J. a member of this Society, being read, setting forth that at the time of his becoming a student of this Society, he was of full standing for the degree of Master of Arts in the University of Oxford, and was then regularly and without favour of Convocation admitted to that degree; that he was admitted of this Society on the 28th day of January 1773, and might by their Masterships' permission, and the favour usually granted to Masters of Arts, be called to the Bar on the 29th of January 1776; but without some particular indulgence of their Masterships, he could not be called to the Bar in the beginning of the Term; he therefore humbly prayed the favour of their Masterships, that the usual day of calling to the Bar might be adjourned from this day to Monday the 29th; or to grant him such other indulgence as their Masterships should think fit. It is ordered that it be rejected.

"At a parliament holden the ninth day of February 1776, ordered that Mr. Scott, J. be called to the degree of the Utter Bar."

"When I was called to the Bar," said he to Mrs. Forster, "Bessy and I thought all our troubles were over: business was to pour in, and we were to be almost rich immediately. So I made a bargain with her, that during the following year, all the money I should receive in the first eleven months should be mine, and whatever I should get in the twelfth month should be hers. What a stingy dog I must have been to make such a bargain! I would not have done so afterwards. But, however, so it was; *that* was our agreement: and how do you think it turned out? In the twelfth month I received half a guinea; eighteen pence went for fees, and Bessy got nine shillings: in the other eleven months I got not one shilling."

He used to relate that he had been called to the Bar but a day or two, when, on coming out of court one morning, he was accosted by a dapper-looking attorney's clerk, who handed him a motion-paper, in some matter of course, which merely required to be authenticated by counsel's signature. He signed the brief, and the attorney's clerk, taking it back from him, said, "A fine hand yours, Mr. Scott,—an exceedingly fine hand! It would be well for us, Sir, if gentlemen at the Bar would always take a little of your pains to insure legibility. A beautiful hand, Sir!" While he spoke thus, the eloquent clerk was fumbling, first in one pocket, then in the other; till, with a hurried air, he said, "A—a—a—, I really beg your pardon, Sir, but I have unfortunately left my purse on the table in the coffee-room opposite;

pray do me the favour to remain here, and I will be back in one moment." So speaking, the clerk vanished with the rapidity of lightning: "and never," said Lord Eldon, in telling the story, "did I set eyes on that man again."

Mr. Scott, his father, did not live even to see the future Chancellor fairly launched into business. The year in which the son was called to the bar, was that in which the father departed this life. He died on the 6th of November 1776, and was buried at All Saints', Newcastle. A local act of parliament prohibits the erection of monuments in that edifice; and William and Henry, the elder brothers of Lord Eldon, appear to have disliked any other situation for a memorial of their parent than the actual resting-place of his remains; but, after the death of both those brothers, Lord Eldon dedicated a tablet to his memory in the mother church of St. Nicholas, with the following unostentatious inscription:—

IN MEMORY OF
MR. WILLIAM SCOTT,
FREEMAN AND HOASTMAN OF THIS TOWN,
WHO WAS BURIED AT ALL SAINTS' CHURCH,
NOVEMBER 1776.
HE LEFT TO HIS FAMILY A RICH INHERITANCE, IN THE
EXAMPLE OF A LIFE OF INDUSTRY UNREMITTING,
OF PROBITY UNSULLIED, AND OF PIETY
MOST PURE AND SINCERE.
THIS TABLET IS PLACED HERE BY ONE OF HIS
AFFECTIONATE SONS.

After Lord Eldon's death, there was found in his handwriting the following memorandum of his father's circumstances and merits:—

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"Malt; coals; ships; underwriting ships; grindstones for foreign countries; coal barges on the Tyne, 12, 13, 14, or 16; two men each, all the year through; sole owner of a sugar house in Newcastle; owner of various houses and large gardens; bought two estates in the county of Durham. Lord Stowell never would sell them after his father's death because they were his father's. At his death there were few persons in Newcastle town of substance equal. He provided liberally for his eldest son as such, and decent fortunes for his several younger children, sons and daughters.

"The best inheritance the father could leave to all his children was, in remembrance of his industry unremitting, his probity never interrupted, his piety most constant and pure, his exemplary life."

By his will, dated 26th December 1774, Mr. William Scott appointed his eldest son William his sole executor, to whom he left his estate at Usworth in the county of Durham, and various properties in Newcastle, including his residence in Love Lane, which was given subject to a life interest for his widow. To her he gave also an annuity of 100*l.*, to his son Henry 3000*l.*, and to John 1000*l.*, in addition to the 2000*l.* settled at his marriage; to each of his two daughters, Barbara and Jane, 1500*l.*, and to his grand-daughter, Ann Cramlington, 1200*l.* Shortly after Lord Stowell's death, Lord Eldon told the present Earl that the property left to Lord Stowell by their father amounted in value to 24,000*l.* or 25,000*l.*

Mr. John Scott took care to improve his professional knowledge, not only by conveyancing at the chambers of Mr. Duane, in which pursuit he seems to have persevered for some months after his call to the Bar, but by careful observation, in court, of the manner in which business was done by the ablest and most experienced leaders. During this apprenticeship, he began to

store up, with his legal lore, the amusing gossip of Westminster Hall, and collected a great magazine of professional stories, which he related in after-life with a most agreeable humour, and of which many are preserved in the Anecdote Book.

Among them, it is related that Mr. Dunning, who was the most eminent of the counsel practising in the Court of King's Bench when Mr. Scott first entered the profession, "had, some years before, when Solicitor General, diverted himself by making an excursion, in vacation time, to Prussia. From his title of Solicitor General, the King supposed him to be a general officer in the British army; so he invited him to a great review of his troops, and mounted him, as an eminent military person, upon one of his finest chargers. The charger carried the Solicitor General through all the evolutions of the day, the "General" in every movement being in a most dreadful fright, and the *Horse's duty* never allowing him to dismount. He was so terrified and distressed by this great compliment, that he said he never would go abroad again as a general of any sort."

The Anecdote Book relates the following particulars of the conduct of a cause in which Mr. Scott was Mr. Dunning's junior:—

"I had, very early after I was called to the Bar, a brief in business in the King's Bench, as junior to Mr. Dunning. He began the argument, and appeared to me to be reasoning very powerfully against our client. Waiting till I was quite convinced that he had mistaken for what party he was retained, I then touched his arm, and, upon his turning his head towards me, I whispered to him that he must

have misunderstood for whom he was employed, as he was reasoning against our client. He gave me a very rough and rude reprimand for not having sooner set him right, and then proceeded to state, that what he had addressed to the court was all that could be stated against his client, and that he had put the case as unfavourably as possible against him, in order that the court might see how very satisfactorily the case against him could be answered; and, accordingly, very powerfully answered what he had before stated."

Mr. Scott did not long occupy his Cursitor Street "perch," but removed to a small house in Carey Street, which was adapted for the double purpose of a residence and of business-chambers. His labours were lightened by the constant companionship of his wife, who accustomed herself to his hours, and would sit up with him, silently watching his studies. But his application was still too intense for his health. It was scarcely three years after the ominous remarks of the cook at Birmingham, that Dr. Heberden despatched him to Bath, with notice, that if, in three or four weeks, the waters should bring on the gout, all was well; but that if this result was not effected, he must prepare for the worst.

What followed at this interview was narrated by him, late in life, to Mr. Farrer, in the following words:—"I put my hand into my pocket, meaning to give Heberden his fee; but he stopped me, saying, 'Are you the young gentleman who gained the prize for the essay at Oxford?' I said I was. 'I will take no fee from you. Go to Bath, and let me see you when you return.' I did go to Bath, and drank the waters, and had a fit of the gout. My health was much improved. I called to thank Heberden: I often

consulted him; but he would never take a fee. He was a very kind man."

In the second season of his professional career, his prospects began to improve a little, and only a little. The Duke of Northumberland, who, when quartered at Newcastle, had received some attentions from Mr. Surtees, evinced his sense of those civilities by retaining Mr. Scott in a proceeding before the House of Lords; but on the northern circuit, which he had naturally selected, his early progress was not rapid. Mr. Surtees's interest had procured him a general retainer for the corporation of Newcastle; but, during his first few circuits, he got little business, except that which is usually entrusted to mere beginners—the defence of prisoners indicted for petty felonies. In Mr. Scott's time, a considerable number of these offences were capital, and caused much anxiety to the defending counsel. It is true that, in nine cases out of ten, there could be then, as now, but little scope for an advocate's skill; because, in at least that proportion of cases, the nature of the proof for the prosecution is so direct and positive, as to baffle all the arts of defence; and the acquittals occasionally pronounced, proceed, for the most part, from the absence of some material piece of evidence, or the mistake or wilfulness of some one or more of the witnesses or jurymen. Now and then, however, there will really be enough of doubt to give the prisoner a fair chance of acquittal, if his counsel do not commit him by an indiscreet questioning of the witnesses: and the general vice of young and inexperienced advocates is a proneness to this imprudence. But Mr. Scott's discretion and caution—

Insigne mœstis præsidium reis—

exempted him from the common error. He was wont to say, jocularly, that he had been a most effective advocate for prisoners; for that he had seldom put a question to a prosecutor.

Mr. Lee, afterwards Solicitor General, who was familiarly known in the legal and professional circles of that time as Jack Lee, had a good deal of business on the northern circuit when Mr. Scott joined it, and treated the novice with distinction and kindness. The circuit, in those days, was usually performed on horseback, and at its close, Lee and Scott would ride homeward together. Lord Eldon's Anecdote Book has the following recollections of these journeys:—

"When I first went the Northern Circuit, I employed my time, having no business of my own, in attending to the manner in which the leading counsel did their business. I left Lancaster, at the end of a circuit, with my friend Jack Lee, at that period a leader upon the circuit. We supped and slept at Kirkby Lonsdale, or Kirkby Stephen. After supper I said to him, 'I have observed that throughout circuit, in all causes in which you were concerned, good, bad, indifferent, whatever their nature was, you equally exerted yourself to the utmost to gain verdicts, stating evidence and quoting cases, as such statement and quotation should give you a chance of success, the evidence and the cases not being stated clearly, or quoted with a strict attention to accuracy, and to fair and just representation. Can that,' said I, 'Lee, be right? Can it be justified?'—'Oh, yes,' he said, 'undoubtedly. Dr. Johnson,' he stated, 'had said that counsel were at liberty to state, as the parties themselves would state, what it was most for their

interest to state.' After some interval, and when he had had his evening bowl of milk punch and two or three pipes of tobacco, he suddenly said, 'Come, Master Scott, let us go to bed. I have been thinking upon the questions that you asked me, and I am not quite so sure that the conduct you represented will bring a man peace at the last.'

"I have understood that Dr. Johnson's statement was to this effect:—that as it was the duty of counsel to give information to the court, he ought to state facts accurately, to quote cases accurately, to misrepresent nothing with respect either to facts or cases, and having accurately stated facts and quoted cases, he was at liberty in conscience to reason upon them to the very best of his powers and abilities; and as the law supposed the judge to be an abler man, and an abler lawyer than the counsel, the judge was to reason better upon the facts and the cases, than the counsel; and, proceeding in this way, the counsel did nothing wrong in thus gaining the cause for his client. But it may be questioned whether even this can be supported.

"Of John Lee I love to indulge in the remembrance. To me he was most kind in my younger days. He was a very powerful cross-examiner of a witness. I remember a witness remonstrating against the torture of his cross-examination. The man, who was clothed in rags, said, 'Sir, you treat me very harshly, and I feel it the more because we are relations.'—'We relations, fellow!' said Lee: 'how do you make out that?'—'Why,' said the man, 'my mother was such a person, and she was the daughter of such a man, and he was the son of a woman, who was the

daughter of a person (naming him), who was your great grandfather, or great, great, great grandfather.' — 'Well,' said Lee, 'you are right, he was so. And then, my good cousin, my good fourth or fifth cousin, speak a little truth, I beseech thee, for the honour of the family — for not one word of truth, cousin, hast thou spoken yet.'

"When Mr. Lee and I were returning from Lancaster assizes, he to Staindrop and I to Newcastle, we dined at Kirkby Lonsdale, and in the same room two other gentlemen dined, at the other end of it. In conversation, Mr. Lee said to me, 'Had we not better send a servant forward to bespeak beds at Kirkby Stephen?' I said, 'No: in such a country, all travellers should take their chance.' We finished our dinner before the other party concluded their repast, and we set out for Kirkby Stephen, where we were to sleep. In our way thither I heard a person coming with a very quick pace after us. When he approached us, I asked him where he was going. I observed that he was the servant of the party who had dined in the same room with us, and who had heard me so generously disclaim all unfair play about beds. He said he was going to Kirkby Stephen. 'What,' said I, 'to get beds for the gentlemen who dined in the same room with us?' — He answered, 'Yes,' but he could not tell the sign of the house he was to go to. I told him I would set him right in that respect, and directed him to a sort of alehouse that was just on the entrance into the place. Lee and I rode on till we approached, and then passed him standing at the alehouse door, and went to the only decent and tolerably good inn in the place,

where we slept. Next morning we met our dinner companions, one of whom said they had had a dreadfully uncomfortable night, but added that he must own that they richly deserved it, and had no reason to complain of the trick we had played them."

"Jack Lee," said Lord Eldon to Mrs. and Miss Forster, "belonged to Yorkshire; but he went many years to York without receiving a single brief. One afternoon, after dinner, he declared that he found a prophet had no honour in his own country, and that, as he never received a single guinea in York, he would shake the dust off his feet, and leave it the next morning, never to return again. Now Davenport, on hearing this determination, went to his own lodgings, and himself, with Wedderburn, drew up a brief." The sequel appears more circumstantially in the Anecdote Book than in the conversation with the ladies, and is as follows:—

"The brief purported to be 'in a matter entitled the King against the inhabitants of Hum town,' for not repairing a highway: setting forth the indictment and the names of the witnesses to be examined, and their testimony, in a most skilful manner, and they sent it to Lee's lodging with a guinea as the fee. Lee came into the circuit room in the evening, and Wedderburn exclaimed, 'Bless me, Lee, I thought you were gone!'—'Well,' said Lee, 'it is very extraordinary: I was just going. I was shaking the dust off my feet in this place, as an abominable place, that I never would see again, when, lo! a brief is brought to me, and I must stay.'—'Well,' said Davenport, 'in what cause might that be?' Lee said, 'In an indictment, the King against the inhabitants of Hum town.'

'Oh! dear,' said Davenport, 'they brought me a brief in that case with a bad guinea, and I would not take it. I dare say they have given you the bad guinea.'— 'I have it in my pocket,' said Lee: 'here it is.' Davenport looked at it and said, 'Yes, this is the same guinea,' and put it in his pocket. Wedderburn and Davenport then told him the joke they had practised to have the benefit of his company a little longer at York. I think, upon memory, though he was a very good-tempered man, he never forgave this joke."

When Lord Eldon told the story to Mrs. and Miss Forster, the latter said, "But, uncle, he did not go the next morning?" — "No," answered Lord Eldon; "he did not; and he afterwards led almost every cause at York; but that was his beginning."

"In my time," says Lord Eldon in the Anecdote Book, "we had upon the Northern circuit two barristers of very different characters. Fairfax Fearnley, a Yorkshire-man of good strong natural sense, improved, but not largely, by a knowledge of the law, had a good deal of humour, and was a great favourite of the Bar, and of his countrymen in Yorkshire. He was senior to Mr. Davenport, whose temper gave, when they were counsel in the same cause, vast plague and trouble to Fearnley as the leading counsel, not assisted by his junior, but thwarted in all he said or proposed as leading counsel. Davenport was the best-tempered man out of court, and the very worst-tempered man in court, I ever knew. When he was made King's serjeant and knighted, Fearnley led a cause at York on one side, and Sir Thomas Davenport on the other. 'Gentlemen,' said Fearnley, to a Yorkshire special jury of gentlemen, 'I am to lead this cause for the

plaintiff; the new knight, Sir Thomas, is to lead it for the defendant. What Sir Thomas may be to *lead*, I know not; but you, gentlemen, and I, know from sad experience, that he was a terrible bad one to *drive*.'"

The Anecdote Book has the following memorandum, a little amplified here by Miss Forster's minutes:— "In passing through Chesterfield, where my revered master Mr. Moises had, after his taking orders, been curate, and which place he had left many years, I was led, by curiosity, to ask the landlord of the inn, whether he remembered him. 'Yes,' answered he, swearing, 'I well remember him. I have had reason enough to remember him. It was the worst day this place ever saw that brought him here.' I was afraid of hearing something hard on the character of my good old master, and said, 'Mr. Moises was a most respectable man.' — 'That may be,' added the landlord, 'but he married me to the worst wife that ever man was plagued with.' — 'Oh! is that all? that was your own fault; she was your own choice, not Mr. Moises's.' —'Yes,' concluded he; 'but I could not have been married if there had not been a parson to marry us.'"

"From Ulverstone to Lancaster," says the Anecdote Book, "you may go by the shore, or by a road inland. The former is much the shorter ride, but very dangerous if the tide comes in. I asked the landlord of the inn at Ulverstone whether any persons were ever lost in going by the sea-shore to Lancaster, as our party wished to save time and go by the nearest way there. 'No, no,' he answered, 'I think nobody has ever been lost — they have been all found at low water.'

"When I was a very young man," said Lord Eldon

to Mrs. Forster, "Lord Mansfield used to hold levees on the Sunday evenings, and of course all the young lawyers attended, as soon as they had a gown to their backs. Well, I went, and it so happened, on that evening, I was the first, and the then Duke of Northumberland came second; he had just been at Bath, and he was expatiating upon the enjoyment he had had there. 'But,' added his Grace, 'there is one comfort I could not have. I like to read the newspapers at breakfast, and at Bath the post does not come in till one o'clock: that was a drawback to my pleasure.' — 'So,' said Lord Mansfield,' 'your Grace likes the *comfort* of reading the newspapers — the *comfort* of reading the newspapers! — Mark my words. You and I shall not live to see it, but this young gentleman, Mr. Scott, may, — or it may be a little later, — but, a little sooner or later, those newspapers, if they go on as they now do, will most assuredly write the Dukes of Northumberland out of their titles and possessions, and the country out of its King. Mark my words, for this *will* happen."

There was a time, undoubtedly, when the boding of Lord Mansfield seemed to approach its fulfilment; but that danger has passed over: and according to all present appearance, the newspapers, conducted as with few exceptions they are, and adapting themselves, as for the most part they do, to the general sentiments of the most respectable classes of society, appear likely, instead of abetting an inroad upon property, to be among its most effective protectors. Indeed its cause is their own. The machinery of a newspaper is a property as valuable as the machinery of a cotton mill. The sphere of a leading newspaper's

circulation is a good-will as profitable as that of a great professional practice among clients or patients. Perhaps, here or there, some dishonest editor may write up anarchy to lure buyers, so long as he feels assured that there is no danger of his beholding the evil spirit he invokes: but these are writers of very small circulation, and even these would be Conservatives, were their types in jeopardy.

One of the most considerable among the judges of that time was Lord Chief Justice De Grey. "He was the object," says Mr. Farrer, "of Lord Eldon's highest commendation. He spoke of him as a most accomplished lawyer, and of most extraordinary power of memory."—"Lord Chief Justice De Grey," said Lord Eldon, "was a severe sufferer from gout. I have seen him come into court with both hands wrapped in flannel. He could not take a note, and had no one to do so for him. I have known him try a cause that lasted nine or ten hours, and then, from memory, sum up all the evidence with the greatest correctness. I have known counsel interrupt him in his summing up, and represent that he had mis-stated evidence. 'I am right,' he would say, 'I am sure I am right; refer to your short-hand writer's notes.' He invariably proved to be correct."

Mr., afterwards Sir William, Scott to his brother Henry.

[No date: probably January 1779.]

"Business is very dull with poor Jack, very dull indeed; and of consequence he is not very lively. I heartily wish that business may brisken a little, or he will be heartily sick of his profession. I do all I can to keep up his spirits, but he is very gloomy. But *mum!* not a word of this to the wife of your bosom!

* * * * * * *

"I shall go down to Oxford either Lent term or Easter, to take a Doctor of Law's degree, to enable myself to practise in the Admiralty courts. It is my wish and design, if I can manage so as not to spend too much money before, to get myself a seat in parliament at the next general election. It will be of the utmost consequence to me, and without it I shall never be able to do any thing to any great extent. So that every thing depends upon my affairs going well in the mean time. This, however, I say to you in *perfect confidence. Mem. — No curtain communications.*"

Green *v.* Howard, 6th February 1779 (*Brown's Cha. C.* p. 31.) appears to be the first reported case in which Mr. Scott was engaged. On that occasion, he was counsel, with Mr. Ambler and Mr. Madocks, for a petitioner, seeking to extend the meaning of the word "relations" in a will, beyond the scope of the Statute of Distributions. Their argument did not prevail.

Mr. John Scott to Mrs. Henry Scott.

"Dear Sister, "Dec. 7. 1779.

"If you blame me for a silence for which I am totally at a loss what excuse to plead, I can assure you I chastise myself, as much by the severity with which I reflect upon my own indolence (for to no other cause can I attribute it), as your good-nature would make you wish to see me punished. I considered myself as a very great loser by the absence of the family during the little time I could stay at Newcastle. I meet with nothing in my journey so satisfactory to me as a little chat over the old parlour fire-side.

* * * * * * *

"I took Bessy and Jack for a few weeks to Windsor, where we spent our time agreeably enough. The king and his family reside there in the summer, but without any sort of splendour, walking about the streets as plainly dressed and as familiarly as other folks.

* * * * * * *

"Jack is very fond of his school, his mistress, and his book; though his uncle, Mr. W. Scott, takes no small pains to inform him how much it is beneath the dignity of his sex to be under the tuition of a female. However, John does not see the reasonableness of the objections which his uncle had to the good advice of Mrs. Briggs in days of yore."

The following story, related by Lord Eldon to Mrs. Forster, belongs to the month of June 1780: —

"During the period of one of the riots in London, when I was a lawyer, I had to take Bessy to the Temple for safety. I never suffered more in my life than as we went along, for we were exposed to all sorts of insults. They tore off my wife's hat, the handkerchief from her breast, and, when we arrived at the Temple, every article of her dress was torn. We youngsters at the Temple determined that we would not remain inactive during such times; so we embodied ourselves into a troop to assist the military. We armed ourselves as well as we could, and the next morning we drew up in the court, ready to follow out a troop of soldiers who were there on guard. When, however, the soldiers had passed through the gate, it was suddenly shut in our faces, and instantly locked; and the officer in command shouted from the other side, 'Gentlemen, I am much obliged to you for your intended assistance; but I do not choose to allow my soldiers to be shot, so I have ordered *you* to be locked in,' and away he galloped. We looked very foolish.'

CHAPTER VI.

1780—1782.

MR. JOHN SCOTT'S FIRST SUCCESSES, ACKROYD V. SMITHSON, CLITHEROE COMMITTEE, ETC. — MEMORABILIA OF THE NORTHERN CIRCUIT. — LORD THURLOW'S FRIENDSHIP. — BENEVOLENCE OF MR. JOHN SCOTT. — DIFFERENT USAGES OF EMINENT LAWYERS IN ANSWERING CASES.

AFTER a trial of three or four years, during which, with all his diligence, he was able to make very little progress in London, Mr. Scott recurred to an intention, early conceived by him, of settling as a provincial counsel in his native town. The fulfilment of this design was prevented by two unexpected opportunities, which were afforded to his talents by the appeal in the cause of Ackroyd *v.* Smithson, and by the Clitheroe Election Petition. The circumstances of his connection with these two cases are best related in the words in which they were told by Lord Eldon himself, little more than three weeks before his death. He was sitting in his arm-chair by his own fireside, with Mr. Farrer, who had been dining with him; and upon Mr. Farrer's asking him whether the Court of Chancery had been his object when he was first called to the Bar, he answered,—"Certainly not. I first took my seat in the King's Bench; but I soon perceived, or thought I perceived, a preference in Lord Mansfield (then the Lord Chief Justice) for young lawyers who had been bred at Westminster School and Christ Church: and as I

had belonged to neither Westminster nor Christ Church, I thought I should not have a fair chance with my fellows, and therefore I crossed over to the other side of the Hall.* Lord Mansfield, I do believe, was not conscious of the bias; he was a good man." — "Might I ask you, Lord Eldon," said Mr. Farrer, "whether Ackroyd *v.* Smithson was not the first cause in which you distinguished yourself?" — "Did I never tell you the history of that case? Come, help yourself to a glass of Newcastle port, and give me a little. — You must know," he went on, "that the testator in that cause had directed his real estates to be sold, and, after paying his debts and funeral and testamentary expenses, the residue of the money to be divided into fifteen parts — which he gave to fifteen persons whom he named in his will. One of those persons died in the testator's lifetime. A bill was filed by the next of kin, claiming, amongst other things, the lapsed share. A brief was given me to consent for the heir-at-law, upon the hearing of the cause. I had nothing then to do but to pore over this brief. I went through all the cases in the books, and satisfied myself that the lapsed share was to be considered as real estate, and belonged to my client (the heir-at-law). The cause came on at the Rolls, before Sir Thomas Sewell. I told the solicitor, who

* Before the new courts were built, the Courts of King's Bench and Chancery were opposite to each other, at the two corners of the upper extremity of Westminster Hall, the King's Bench being on the eastern, and the Chancery on the western side. "The number of counsel, regularly practising at the Chancery Bar when Mr. Scott joined it, is said (*Law Mag.*, No. xliii.) to have been only twelve or fifteen."

sent me the brief, that I should consent for the heir-at-law, so far as regarded the due execution of the will, but that I must support the title of the heir to the one fifteenth, which had lapsed. Accordingly, I did argue it, and went through all the authorities. When Sir Thomas Sewell went out of court he asked the register, who that young man was? The register told him it was Mr. Scott. 'He has argued very well,' said Sir Thomas Sewell, 'but I cannot agree with him.' This the register told me. He decreed against my client. The cause having been carried by appeal to the Lord Chancellor Thurlow, a guinea brief was again brought to me to consent. I told my client, if he meant by 'consent' to give up the claim of the heir to the lapsed share, he must take his brief elsewhere, for I would not hold it without arguing that point. He said something about young men being obstinate, but that I must do as I thought right." — Lord Eldon, in telling the same story to his niece, Mrs. Forster, observed, "You see the lucky thing was, there being *two* other parties, and, the disappointed one not being content, there was an appeal to Lord Thurlow. — In the mean while, they had written to Mr. Johnston, Recorder of York, guardian to the young heir-at-law, and a clever man, but his answer was, — 'Do not send good money after bad: let Mr. Scott have a guinea to give consent, and if he will argue, why let him do so, but give him no more.' — So I went into Court, and when Lord Thurlow asked who was to appear for the heir-at-law, I rose and said modestly, 'That I was; and as I could not but think (with

much deference to the Master of the Rolls, for I might be wrong), that my client had the right to the property, if his Lordship would give me leave, I would argue it.'—It was rather arduous for me to rise against all the eminent counsel. I do not say that their *opinions* were against me, but they were *employed* against me. However, I argued that the testator had ordered this fifteenth share of the property to be converted into personal property, for the benefit of one particular individual, and that therefore he never contemplated its coming into possession of either the next of kin, or the residuary legatee; but, being land at the death of the individual, it came to the heir-at-law.—Well, Thurlow took three days to consider, and then delivered his judgment in accordance with my speech, and that speech is in print, and has decided all similar questions ever since."—Lord Eldon's account to Mr. Farrer concludes thus:—"As I left the Hall, a respectable solicitor of the name of Forster, came up and touched me on the shoulder, and said, 'Young man, your bread and butter is cut for life,' or 'You have cut your bread and butter.'—But the story of Ackroyd *v.* Smithson does not stop there. In the Chancellor's Court of Lancaster, where Dunning (Lord Ashburton) was Chancellor, a brief was given me in a cause in which the interest of my client would oblige me to support, by argument, the reverse of that which had been decided by the decree in Ackroyd *v.* Smithson. When I had stated to the court the point I was going to argue, Dunning said, 'Sit down, young man.'—As I did not immediately

comply, he repeated, 'Sit down, Sir, I wo'n't hear you.' —I then sat down. Dunning said, 'I believe your name is Scott, Sir.'—I said it was. Upon which Dunning went on:—'Mr. Scott, did not you argue that case of Ackroyd *v.* Smithson?'—I said that I did argue it.—Dunning then said, 'Mr. Scott, I have read your argument in that case of Ackroyd *v.* Smithson, and I defy you or any man in England to answer it. I wo'n't hear you.'"

The cause was originally heard before Sir T. Sewell, Master of the Rolls, on the 10th of July 1778, and the appeal was argued before Lord Chancellor Thurlow on the 4th of March 1780.*

Although this was the first case in which he had acquired any public distinction, his value was beginning to be understood among his personal connections; insomuch that, not long afterwards, an offer was made to him of the Recordership of Newcastle. The salary, though not large, was considerable enough to carry great temptation for a man whose professional income in London was inadequate to support his family even in the most economical way; and he calculated that the provincial business which he was likely to obtain would suffice (when coupled with the stipend of Recorder, and with the allowance settled by his wife's friends and his own) to supply the wants of himself and of those who depended on him. He therefore signified his acceptance of the office, and caused a residence to be engaged for him at New-

* See *Brown's Chancery Cases*, vol. i. p. 505.; and Mr. Jarman's admirable analysis of the whole subject, 2 *Jarman's Powell*, 77, 78, *et seq.*

castle. The abandonment of this plan is thus accounted for by himself: —

"I did not go the circuit one year, Mary," said Lord Eldon to Mrs. Forster, "because I could not afford it; I had borrowed of my brother for several circuits, without getting adequate remuneration, and I had determined to quit London, because I could not afford to stay in it. You know a house was taken for me at Newcastle. Well! one morning about six o'clock," (probably on the 14th of March 1781, the Committee having been struck on the 13th,) Mr. (afterwards Lord) Curzon, and four or five gentlemen, came to my door and woke me, and when I inquired what they wanted, they stated t the Clitheroe Election case was to come on, that morning at ten o'clock, before a committee of the House of Commons; that Mr. Cooper had written to say he was detained at Oxford by illness and could not arrive to lead the cause; and that Mr. Hardinge, the next counsel, refused to do so, because he was not prepared. 'Well, gentlemen,' said I, 'what do you expect me to do, that you are here?' They answered, 'they did not know what to expect or to do, for the cause must come on at ten o'clock, and they were totally unprepared, and had been recommended to me, as a young and promising counsel.' I answered, 'I will tell you what I *can* do, I *can* undertake to make a dry statement of facts, if that will content you, gentlemen, but more I *cannot* do, for I have no time to make myself acquainted with the law.' They said that must do; so I begged they would go down stairs and let me get up, as fast as I could. Well, I did state the facts, and

the cause went on for fifteen days. It found me poor enough, but I began to be rich before it was done: they left me fifty guineas at the beginning; then there were ten guineas every day, and five guineas every evening for a consultation — more money than I could count. But, better still, the length of the cause gave me time to make myself thoroughly acquainted with the law." The remainder of the story is more circumstantially related by Mr. Farrer, from Lord Eldon's own narrative to him, communicated in the course of the conversation before referred to.

"On the morning, on which the counsel for the petitioner was to reply, Hardinge came into the committee room, meaning to reply. I saw the members of the committee put their heads together, and then one of them said, 'Mr. Hardinge, Mr. Scott opened this case, and has attended it throughout, and the committee think, that, if he likes to reply, he ought to do so: Mr. Scott, would you like to reply?' — I answered 'that I would do my best.' I began my speech with a very bad joke. You must know that the leading counsel on the other side, Douglas, afterwards Lord Glenbervie, had made one of the longest speeches ever known before a committee, and had argued that the borough of Clitheroe was not a borough by prescription, for it had its origin within the memory of man. I began by saying, 'I will prove to the committee by the best evidence, that the borough of Clitheroe is a borough by prescription; that it had its origin before the memory of man. My learned friend will admit the commencement of this borough was before the com-

mencement of his speech: but the commencement of his speech is beyond the memory of man: therefore the borough of Clitheroe must have commenced before the memory of man.' We were beaten in the committee by one vote. After this speech, Mansfield, afterwards Sir James Mansfield, came up to me in Westminster Hall, and said he heard that I was going to leave London, but strongly advised me to remain in London. I told him that I could not, that I had taken a house in Newcastle, that I had an increasing family, in short, that I was compelled to quit London. Afterwards Wilson came to me and pressed me in the same manner to remain in London, adding what was very kind, 'that he would insure me 400*l.* the next year.' I gave him the same answer as I had given Mansfield. However, I did remain in London, and lived to make Mansfield Chief Justice of the Common Pleas, and Wilson a Puisne Judge.*—'I can't understand,' said Mr. Farrer to Lord Eldon, 'why Hardinge refused to open the petition; do you know?'—'Because he had not read his brief, I suppose,' was the reply."

In 1781, on the 7th of April, the elder brother William, afterwards Lord Stowell, was married to Anna Maria, daughter and co-heiress of John Bagnall, Esq., of Earley Court, in Berkshire.

The two well-employed opportunities, of Ackroyd

* Note by Mr. Farrer. — Lord Eldon latterly told this as it is here stated. The fact is, that Wilson was made a Puisne Judge of the Common Pleas in 1786, and died in 1793. Lord Eldon, I have been informed, *recommended Wilson to Thurlow,* Lord Chancellor, and in that way contributed to his promotion, and proved his remembrance of Wilson's kindness.

v. Smithson, and the Clitheroe Petition, had left the success of Mr. Scott a matter no longer doubtful. At the present day, from the great competition of very learned and very able practitioners, a few occasional opportunities do little, however they be improved. Among the more influential class of attorneys and solicitors, it has become usual to bring up a son or other near relation to the Bar, who, if his industry and ability be such as can at all justify his friends in employing him, absorbs all the business which they and their connection can bestow: and the number of barristers, thus powerfully supported, is now so great, that few men lacking such an advantage can secure a hold upon business. But at the time when Mr. Scott began his professional life, the usage had not grown up of coming into the field with a "*following*" already secured. Education being less general, fewer competitors attempted the Bar: and even among the educated classes, a large proportion of adventurous men devoted themselves to naval and military pursuits, now deprived of their attraction by a peace of more than a quarter of a century. In those days, therefore, it might well happen, as with Mr. Scott it actually did, that a couple of good opportunities, ably used, would make the fortune of an assiduous barrister in London.

The same causes which rendered opportunity thus productive in the metropolis, had their operation also on the business of the circuits. The following story is current at the Bar, of Mr. Scott's first success on the circuit in a civil action. The plaintiff was a Mrs. Fermor, who sought damages against the defendant, an elderly maiden lady named Sanstern, for

an assault committed at a whist-table. Mr. Scott was junior counsel for the plaintiff; and when the cause was called on, his leader was absent in the Crown Court, conducting a government prosecution. Mr. Scott requested that his cause might be postponed till his leader should be at liberty; but, the judge refusing, there was no help, and Mr. Scott addressed the jury for Mrs. Fermor, and called his witnesses. It was proved that at the whist-table some angry words arose between the ladies, which at length kindled such heat, that Miss Sanstern was impelled to throw her cards at the head of Mrs. Fermor, who (probably in dodging to avoid these missiles) fell or slipped from her chair to the ground. Upon this evidence, the defendant's counsel objected that the case had not been proved as alleged; for that the declaration stated the defendant to have committed the assault with her hand, whereas the evidence proved it to have been committed with the cards. Mr. Scott, however, insisted that the facts were substantially proved according to the averment in the declaration, of an assault committed with the hand: for that in the common parlance of the card table, the hand means the hand of cards; and thus that Miss Sanstern, having thrown her cards in Mrs. Fermor's face, had clearly assaulted Mrs. Fermor with her hand. The Court laughed: the jury, much diverted, found the plaintiff's allegations sufficiently proved; and the young counsel had the frolic and fame of a verdict in his favour.

It has been supposed that to this verdict he was indebted for the large practice which he soon afterwards obtained on the Northern circuit; but the three fol-

lowing instances show, that no single exploit was the cause of his extensive success. For the first of them, the writer of this memoir is indebted to the kindness of Mr. Spence, Q. C., who gives it in these words: —

"I was about to join the Northern circuit in 1815, "when the late Mr. Bell took me to one of Lord Eldon's "levees. On my first introduction, Lord Eldon ac- "costed me thus: 'So you are going to join my old "circuit; you will perhaps be surprised to hear that I "was first brought into notice on that circuit by break- "ing the Ten Commandments.' I should have supposed "him to mean that he had read his briefs on Sunday; "but there was that good-humoured gleam of the eye, "which every one who recollects him will understand, "and which puzzled me. He continued, 'I'll tell you "how it was. I was counsel in a cause, the fate of "which depended on our being able to make out "who was the founder of an ancient chapel in the "neighbourhood. I went to view it. There was "nothing to be observed which gave any indication "of its date or history: however, I observed that the "Ten Commandments were written on some old "plaster which, from its position, I conjectured "might cover an arch. Acting on this, I bribed the "clerk with five shillings to allow me to chip away a "part of the plaster; and after two or three at- "tempts I found the key-stone of an arch, on which "were engraved the arms of an ancestor of one of the "parties. This evidence decided the cause, and I ever "afterwards had reason to remember, with some sa- "tisfaction, my having on that occasion broken the "Commandments.'"

Mr. Scott's first success at Durham was in the case

of Adair *v.* Swinburne. The circumstances by which the lead of this cause was devolved upon him are recorded by Mr. Farrer from his own narration, which commenced thus: —

"An issue had been directed out of the Court of Exchequer to be tried at Durham, upon a question of very great importance to coal owners. We had a consultation at Durham, at which were present most of the leaders of the Northern circuit, Jack Lee, Tom Davenport, and others. After we had had a good deal of discussion, Lee said, 'Scott, you must lead this to-morrow—and, the other counsel assenting, I agreed to do so.'—'But why, Lord Eldon, did they put you to lead?'—'Oh! you must know I had been counsel in all the proceedings in the Exchequer; besides, perhaps, they thought that I had an advantage over them in having been born and bred in a coal country. Well, they insisted upon my leading, and I said I would do my best. —Next morning we went into court. We had a special jury of gentlemen of the county, most intelligent men, well acquainted with coal and collieries. Buller, who was trying the issue, when I rose to reply after the defendant's case was closed, said to me, 'Mr. Scott, you are not going to waste the time of the court and of the jury by replying!'"—The sequel of the story is more fully detailed in Mrs. Forster's report of Lord Eldon's narrative to her. — "Said Mr. Justice Buller, 'You have not a leg to stand upon.'— Now this was very awkward — a young man, and the judge speaking so decidedly. — However, I said, 'My Lord, in ninety-nine cases out of a hundred, I would sit down, upon hearing the judge so express himself;

but so persuaded am I that I have the right on my side, that I must entreat your Lordship to allow me to reply, and I must also express my expectation of gaining the verdict.' Well, I did reply, and the jury — it was a special jury, Charles Brandling was foreman — retired, and after consulting six or eight hours, they returned, and actually gave the verdict in my favour.

"When I went to the ball that evening, I was received with open arms by every one. Oh! my fame was established; I really think I might have married half the pretty girls in the room that night. Never was man so courted. It certainly was very flattering to be so received; but yet it was painful, too, to mark the contrast from the year before: — it certainly was not my fault that I had no cause to lead the year before.

"But I must not omit to tell you the conclusion. I went to Carlisle, and there Buller sent for me, and told me he had been thinking over that case on his way from Newcastle, and he had come to the conclusion that *he* was entirely wrong, and I was right: therefore he had sent for me to tell me this, and to express his regret for having stopped, or rather attempted to stop me in court. This was very handsome in him, but it certainly had been a very awkward predicament for a young man. This cause raised me aloft."

The Anecdote Book gives the following account of his first introduction to business at Carlisle:—"I was at the Assizes for Cumberland in seven successive years before I had a brief. It happened that my old friend Mr. Lee, commonly called Jack Lee, was absent

in the criminal court, when a cause was called on in the civil court, and some attorney, being by that absence deprived of his retained counsel, was obliged to procure another, and he gave me a guinea, with a scrap of paper as a brief, to defend an old woman in an action for an assault brought against her by another old woman. The plaintiff had been reposing in an arm-chair, when some words arising between her and my client, the latter took hold of the legs of the chair, and in fact threw the plaintiff head and heels over the top of the chair. This sort of assault of course admitted of easy proof, and a servant maid of the plaintiff's proved the case. I then offered in court that a chair should be brought in, and that my old female client should place herself in it, and that the lady (the plaintiff) should overset the chair and my old woman, as she had been upset herself. Upon the plaintiff's attorney refusing this compromise, the witness (the servant maid) said, that her mistress (the plaintiff) was always willing to make up the matter, but that her attorney would never allow her to do so, and that her mistress thought she must do as her attorney bid her do, and had no will of her own. 'So then,' observed I to the jury, knowing that her attorney's name was Hobson, 'this good lady has had nothing for it but "Hobson's choice." And pray then, gentlemen,' I added, 'as the good woman wants no damages, and the cause is Hobson's, give him but a penny at most, if you please.' This penny the jury gave. When I record that in the same assizes I received seventy guineas for this joke, for briefs came in rapidly, I record a fact which proves that a lawyer may begin to acquire wealth by a little pleasantry,

who might long wait before professional knowledge introduced him into notice and business."

As he had been seven years on the circuit, this lucky cause may probably have been heard about the summer of 1782. To nearly the same period may be referred a practical joke, related in the Anecdote Book, as follows:—

"At an assizes at Lancaster, we found Dr. Johnson's friend, Jemmy Boswell, lying upon the pavement, — *inebriated.* We subscribed at supper a guinea for him and half a crown for his clerk, and sent him, when he waked next morning, a brief with instructions to move, for what we denominated the writ of 'Quare adhæsit pavimento,' with observations duly calculated to induce him to think that it required great learning to explain the necessity of granting it to the judge, before whom he was to move. Boswell sent all round the town to attornies for books, that might enable him to distinguish himself — but in vain. He moved however for the writ, making the best use he could of the observations in the brief. The judge was perfectly astonished, and the audience amazed. — The judge said, 'I never heard of such a writ — what can it be that adheres *pavimento?* — Are any of you gentlemen at the bar able to explain this?' The Bar laughed. At last one of them said, 'My Lord, Mr. Boswell last night *adhæsit pavimento.* There was no moving him for some time. At last he was carried to bed, and he has been dreaming about himself and the pavement.'"

Lord Eldon, talking to Mrs. Forster, in after life, about the memorabilia of the Northern circuit, said, "We had an amusing case at York. Stakes for a race

had been deposited in the hands of one party, to be paid to the owner of the horse that won; but then there was a condition that each horse was to be ridden by a *gentleman;* and it was disputed whether the horse that did win had been ridden by a *gentleman*, or not. This action was to ascertain this point. Now the holder of the stakes stated, that he was anxious to get the money paid, provided he was sure that he would not be called upon to pay it over again. The judge told him he was quite right to be careful, and it must be ascertained whether the person was a *gentleman* or not. Well, we had a great deal of evidence, and then we came to the summing up of the judge, who addressed the jury in these words: — 'Gentlemen of the jury, when I see you in that box, I call you *gentlemen*, for I know you are such: custom has authorised me: and, from your office there, you are entitled to be called *gentlemen.* But out of that box, I do not know what may be deemed the requisites that constitute a *gentleman:* therefore I can give you no direction.' (A laugh.) The jury returned a verdict that he was not a gentleman. Well, the next morning he challenged both Law and me, who were conducting the cause against him, for saying that he was no *gentleman.* We sent him this answer, that we could not think of fighting one, who was pronounced, by a solemn verdict of twelve of his countrymen, to be no *gentleman.*

Another Northern circuit story of those days was told by Lord Eldon to Mrs. Forster, about a party at the house of a certain Lawyer Fawcett, who gave a dinner every year to the counsel. "On one occasion," related Lord Eldon, "I heard Lee say, 'I cannot leave

Fawcett's wine: mind, Davenport, you will go home immediately after dinner, to read the brief in that cause that we have to conduct to-morrow.' — 'Not I,' said Davenport; 'leave my dinner and my wine to read a brief! No, no, Lee — that wo'n't do.' — 'Then,' said Lee, 'what is to be done? who else is employed?' — Davenport: 'Oh, young Scott.' — Lee: 'Oh! he must go. Mr. Scott, you must go home immediately, and make yourself acquainted with that cause before our consultation this evening.' This was very hard upon me; but I did go, and there was an attorney from Cumberland, and one from Northumberland, and I do not know how many other persons. Pretty late, in came Jack Lee as drunk as he could be. I cannot consult to-night, — I must go to bed,' he exclaimed, and away he went. Then came Sir Thomas Davenport: 'We cannot have a consultation to-night, Mr. Wordsworth' (Wordsworth, I think, was the name; it was a Cumberland name), shouted Davenport; 'don't you *see how drunk Mr. Scott is?* it is impossible to consult.' Poor me, who had scarce had any dinner, and lost all my wine — *I* was so drunk that *I* could not consult! Well, a verdict was given against us, and it was all owing to Lawyer Fawcett's dinner. We moved for a new trial, and I must say, for the honour of the Bar, that those two gentlemen, Jack Lee and Sir Thomas Davenport, paid all the expenses between them of the first trial. It is the only instance I ever knew: but they *did.* We moved for a new trial (on the ground, I suppose, of the counsel not being in their senses,), and it was granted. When it came on, the following year, the judge rose and said, 'Gentlemen, did any of you dine with Lawyer Fawcett yesterday?

for, if you did, I will not hear this cause till next year.' There was great laughter. We gained the cause that time."

The following memorandum in the Anecdote Book, touching a couple of roguish attorneys, may be referred to this part of Mr. Scott's life: —

"There were," says he, "when I was not much advanced in professional business, two attorneys, father and son, of the name of Priddle. In point of character, they stood low. Old Lord Mansfield used to say to the father, 'Don't read your affidavit, Mr. Priddle; we give the same credit to what you say as we do to what you swear.' They had a cause, father against son. The father called to leave a retainer with me against the son, representing him as the most worthless of human beings. I declined to accept it in this family cause. Soon afterwards the son called to retain me against the father, representing the old gentleman as the most worthless of human beings. This retainer I also declined to accept. The elder of these persons had got possession of a house belonging to the crown. Macdonald, Attorney-General, had great difficulty in dispossessing him by proceedings at law, but at last succeeded; and when old Mr. Chamberlayne, the Treasury Solicitor, went with due authority to demand possession, Priddle said, 'If you will take the house, you shall take all that's in it. Poor Mrs. Priddle died a day or two ago; she lies a corpse up stairs in bed, and there I shall leave her. If you will have the house, you shall have her also.' The Treasury Solicitor took possession of the house and of her, and Priddle rejoiced in saving the expense of burying his departed spouse."

The memorable argument in Ackroyd *v.* Smithson had fixed the attention of Lord Chancellor Thurlow upon Mr. Scott, whom he now treated with great distinction, in private as well as in public. It has been said, that, soon after that argument, Mr. Scott received, and declined, the offer of a Mastership in Chancery: but when his grandson asked him about this in his latter years, he said he had no recollection of it; nor is it likely that any man, not in the greatest business, would have rejected such an advancement. He was even anxious at that time to be made a Commissioner of Bankrupts. It has been supposed that he actually obtained such a nomination; but this is a mistake, induced apparently by the fact that there was, in his early life, a Commissioner of Bankrupts named John Scott, a member of Gray's Inn. Lord Eldon's account of the matter to Mrs. Forster was this: "Thurlow became my steady friend, but he showed it rather oddly in one circumstance. Sir Grey Cooper had written to him to ask him to give me a Commissionership of Bankrupts, and he promised *he would.* Now you know a hundred and sixty or seventy pounds a year would have been a great thing to us; but *he never did.* In after life I reminded him of his promise, and inquired why he had not fulfilled it; and his answer was curious: 'It would have been your ruin. Young men are very apt to be content when they get something to live upon; so when I saw what you were made of, I determined to break my promise, to make you work;' and I dare say he was right, for there is nothing does a young lawyer so much good as to be half starved: it has a fine effect. But it was rather a curious instance of Lord Thurlow's kindness."

Mr. John Surtees, Lady Eldon's brother, relates, from Lord Eldon's own account to him, that Lord Eldon, early in his professional life, was retained in some case with Lord Alvanley (then Pepper Arden), who spoke with great fluency, but very loosely and without due preparation. When Mr. Scott rose on the same side, Lord Thurlow, with his usual gravity of manner, said, "Mr. Scott, I am glad to find that *you* are engaged in this cause, *for I now stand some chance to know something of the matter.*"

As a set-off to these compliments, Lord Eldon used to relate of himself, that on some occasion, at the close of his address, Lord Thurlow said to him, "I "was with you, Mr. Scott—till I heard your argu- "ment."

The following story, related in the Observer newspaper, of the 21st of January, 1838, a few days after Lord Eldon's death, belongs to this period of his biography. The authority for it is not cited, but it is circumstantially told, and corresponds with his known benevolence.

"When the late Lord Eldon was plain Mr. Scott, but a rising member of the Bar, the hair-dresser who attended him took an opportunity of mentioning to him, that an acquaintance of his was entitled to considerable property if he had his right. Mr. Scott listened to the statement, and felt interested in it. With a goodness of heart which did him honour, he told his informant to go to Mr. Giles Bleasdale, the predecessor of the highly respectable firm of Holme, Frampton, and Loftus, and state the particulars to that gentleman. The worthy tonsor did so; Mr. Bleasdale reduced the facts to writing; and, by the advice

of Mr. Scott, proceedings were commenced to recover the property in question. Mr. Scott, however, told Mr. Bleasdale that, although he should not expect any fees during the progress of the cause, he wished an accurate account to be kept of the amount to which he would be entitled at the termination of the suit. Mr. Scott was ultimately successful for his client, and, on the winding up of the business, Mr. Bleasdale waited upon him with a well-filled purse or canvass bag, containing the whole of his fees in gold. Mr. Scott smiled with evident satisfaction, but, recollecting himself, he sent for the hair-dresser who had first introduced the subject to him. The hair-dresser, making his appearance, was congratulated on the success of his friend by Mr. Scott, who then added, 'As you have yourself had a good deal of trouble in the affair, take that purse;' and handed over to the astonished perruquier the whole sum brought by Mr. Bleasdale as his fees."

The number of opinions given by Mr. Scott when at the Bar, upon cases laid before him for advice, is known to have borne a small proportion to the extent of his other practice. The reasons of this are explained in the following extract from the Anecdote Book:—"When I got into considerable business at the Bar, I was much resorted to by professional persons, laying cases before me for my opinions. Lord Kenyon, when at the Bar, made, one year (of which he showed me evidence), by opinions only, about three thousand pounds—at that time, according to the rate of fees given to counsel, a very large sum. It was, however, his rule to consider himself as only required to read the case, as it was stated to

him, and to give such opinion as his general knowledge enabled him to give upon reading it, without looking for further information as to matter of law, by looking into books. When he afterwards became a Judge in Equity, the rule by which he governed himself, as to the facts of any case, was to consider himself as not bound to seek for further information as to those facts, than as the diligence of counsel had stated them; and his judgment was usually given without assisting himself by more than his general knowledge of law enabled him to aid himself, at the conclusion of the counsel's reply. It is due to the very great law-learning of Mr. Kenyon, afterwards Lord Kenyon, to record, that no lawyer, in my days, could, in this way of proceeding, do so much justice to parties consulting him, or before him for judgment, as he could.—My business as to giving opinions was of very short duration. I could not so far trust my knowledge of law, as to believe that I could not confirm it, or improve it, by looking into books and authorities, after I had read the stated case. This led necessarily to delay, and sometimes to a correction of that opinion, which I at first entertained, and which the solicitor consulting me wished to obtain perhaps. He then ceased, as to such matters, to be a client of mine. But this sort of employment forsook me in a greater degree, because, after my experience had taught me that cases upon which opinions had been given (and upon the encouragement, contained in those opinions, suits had been instituted) differed materially and essentially in circumstances from what were proved to be the real cases when the causes in

such suits were heard, and that experience convinced me that a great many attornies, who had stated cases, could not but know that those were material and essential circumstances, which, being within their knowledge, ought to have been, but which were not, stated in the cases, when laid before counsel, I got into a habit prejudicial to myself, which I know in some instances to have been very useful to others, of considering the probability or improbability of the correctness and sufficiency of the statement in cases laid before me, stating in my opinions the vast difference it would make in the judgment if a suit was instituted, if facts were either suppressed, or matters stated which were not facts, or if facts, so far as the statement went, were not the whole truth of the case; and then pointing out in the opinion what I thought possible, or conjectured, to be matters, which might form part of the case though not at all stated, and circumstances which might qualify the effect of the facts, which might be only partially stated, leaving it to the party consulting me to make any representation as to such things as he might think proper, or to act upon an opinion which had all such qualifications in the body of it. Among solicitors and attornies there were many very worthy men; there were others certainly not such; as there are in all other classes of men, good and bad. One of the worthiest I have known said, they did not want opinions that had so many 'ifs' in them, that such would not do for them, that they spoilt business, and certainly they, aided by a disinclination which I had to be engaged in a branch of the profession of so much responsibility, and with reference to which I thought so much care and trouble absolutely necessary, en-

tirely spoilt my opinion business. — No contemporary of Mr. Kenyon gave so many opinions as he did.— The gentleman who appeared to stand next as to the number, was Mr. Dunning; but many of his opinions were given by Mr. J. Wilson, afterwards Mr. Justice Wilson, though signed by Mr. Dunning. The hand-writing of those two gentlemen were so much alike that they could hardly be distinguished; and Mr. Wilson's opinions were very valuable."

The year 1782 was that of Lord Rodney's great victory over the French fleet: an achievement in which Sir Samuel (afterwards Viscount) Hood had an important share. Lord Eldon, who at a later period became acquainted with Lord Hood, records, among his anecdotes, a testimonial from this commander, which is important to Lord Rodney's fame.

" Lord Rodney, though he achieved mighty things, was not considered by the country as having done as much as he ought in his victory over the French, I think, in his last engagement. It was in the engagement in which old Lord Hood was either second, or very high in command. I mentioned to him that the country thought of that business as above stated. His answer was, 'I think more *might* have been done, but if I had commanded, I don't think that I should have ventured to have attempted more.'"

CHAPTER VII.

1783.

COALITION MINISTRY. — ANECDOTE OF THURLOW. — SILK GOWN. — MR. JOHN SCOTT'S VINDICATION OF HIS SENIORITY. — ANECDOTE OF LORD COLLINGWOOD. — CANVASS OF WEOBLY: SPEECH: LORD SURREY: MISS BRIDGE: ELECTION OF MR. JOHN SCOTT. — DANGEROUS ILLNESS OF, AND LETTERS FROM, HIS BROTHER WILLIAM. — ENCOURAGING LETTER FROM MR. LEE TO MR. JOHN SCOTT. — COMMENCEMENT OF PARLIAMENTARY SESSION. — ANECDOTE OF LORD NORTH. — MR. JOHN SCOTT'S MAIDEN SPEECH. — HIS SPEECH ON MR. FOX'S INDIA BILL. — FALL OF THE COALITION MINISTRY. — NEW ADMINISTRATION UNDER MR. PITT.

THE administration of Lord Shelburne, which had succeeded that of Lord Rockingham, gave way, in the spring of 1783, to the coalition ministry of Lord North and Mr. Fox, the nominal head of which was the Duke of Portland. Among the members of the cabinet who then retired, was Lord Thurlow, of whose conduct on that occasion the following particulars were related by Lord Eldon to his brother-in-law, Mr. John Surtees: —

"Mr. Fox, much to Lord Thurlow's surprise, called at his house, and was shown into his drawing-room. Lord Thurlow, immediately that Mr. Fox's visit was announced, determined to receive him, (observing when he narrated the matter, that he did not wish that Mr. Fox should suppose him afraid to meet any one,) and an interview took place. Lord Thurlow, on being informed by Mr. Fox that he and his party

wished the co-operation of his Lordship, as Chancellor, in the administration they wished to form, said, 'Mr. Fox, no man can deny that either you, or Mr. Pitt, are, beyond any two men that can be named, fit, from character and talents, to be at the head of any administration; but, as Mr. Pitt is very acceptable to the King, and is in an extraordinary degree popular in the country, I have connected myself with him.'"

On Lord Thurlow's refusal, the great seal was put in commission. It was not long before the Lords Commissioners (namely, Lord Loughborough, then Chief Justice of the Common Pleas, Mr. Justice Ashhurst, and Mr. Baron Hotham) were authorised, by the new government, to call within the Bar a few of the most eminent among the junior counsel: and Mr. Scott received a message from the Duke of Portland, through the Lords Commissioners, offering to include him in this promotion. Mr. Scott, with his habitual prudence, took time to deliberate; and what followed has thus been related by himself, in the Anecdote Book, and in his conversations with Mrs. Forster and Mr. Farrer:—

"After some hesitation, I communicated my intention of accepting the offer, answering that I should feel honoured and gratified in doing so. Now this was on the Wednesday: and on Thursday I found that Erskine and Piggott, both of them my juniors, were also to have silk gowns, and that they were to be sworn in on the Friday, whilst Saturday was appointed for me to be sworn in; so I immediately wrote to say, that though I had felt highly honoured in being offered a silk gown, and had gratefully accepted it, yet as I found Mr. Erskine and Mr. Piggott, my

juniors at the Bar, were to be put over me, by being sworn in the day previous to myself, I must beg leave to retract my acceptance, as I could not consent to accept promotion accompanied by any waiver of my professional rank: and this letter I sent. I was called before the Lords Commissioners, who took great pains to induce me to alter my purpose. One of them said, Mr. Piggott was senior at the Bar to Mr. Erskine, and yet he had consented to let Mr. Erskine take precedence of him. I answered, 'Mr. Piggott is the best judge for himself: I cannot consent to give way, either to Mr. Erskine or Mr. Piggott.' Another said, 'Mr. Scott, you are too proud.'—'My Lord, with all respect I state it is not pride: I cannot accept the gown upon these terms.' After much difficulty, and particularly as the patents of Erskine and Piggott had passed the seal, the matter seems to have been arranged; for on the Saturday I received a patent, appointing me to be next in rank to Peckham, and placing Erskine and Piggott below me, though in fact both of them had been sworn in the day before me; and that patent I have to this day."

Lord Eldon, referring in his Anecdote Book to the course he took in the matter of this promotion, says, that the transaction made some noise at the time: and expresses his belief that it had a very considerable effect and influence in producing the subsequent successes of his professional life. "Did you think," said Mr. Farrer to him, "that it was so important to insist upon retaining your rank?"—"It was every thing," he replied, with great earnestness; "I owed my future success to it." He does not exemplify this impression by any particular incidents of his sub-

sequent life; but those who are acquainted with the profession of the Bar, will be fully aware of the advantages accruing to a man of acknowledged abilities, from a character early established for independence and self-respect. Mr. Peckham, who received the offer of promotion at the same time with Mr. Scott, and who, like him, was senior both to Mr. Erskine and to Mr. Piggott, followed this manly example, and asserted his seniority with equal effect. The dates and priorities are as follows: —

Patents of precedence:

Friday, May 16th, 1783, to the Hon. Thomas Erskine —

with rank next after the King's Counsel then being.

Wednesday, May 21st, to Arthur Piggott, —

with rank next after the King's Counsel, and after the Hon. T. Erskine.

But these two patents were virtually corrected by the patents of precedence, to Mr. Peckham and Mr. Scott, granted

Friday, May 30th, to Harry Peckham, —

placing him next after the King's Counsel, then being, and *before* the Hon. T. Erskine.

Wednesday, June 4th, to John Scott, —

next after the King's Counsel then being, and after Harry Peckham.

The 4th of June, 1783, the day on which Mr. Scott's patent of precedence bears date, was that on which he completed his 32d year; and on the 20th of the same month, he was called to the bench of the Middle Temple.

Lord Eldon's eminent school-fellow, Lord Collingwood, afterwards evinced a similar spirit on the sub-

ject of professional honours. Miss Forster was speaking to Lord Eldon of a naval officer, who, she said, had gained two steps from his superior officers being killed.

Lord Eldon. — The same thing happened to Lord Collingwood, not at Trafalgar, but at the battle on the first of June. Medals were given on that occasion, but not to him.

Miss. F. — How bitterly he felt the omission!

Lord Eldon. — And how properly! When the medal was sent to him for Cape St. Vincent, he returned it, with a letter saying that he felt conscious he had done his duty as well on the 1st of June, as at Cape St. Vincent, and that if he did not merit the first medal, neither could he merit the second. He was quite right: he would have both or neither. Both were sent to him.—

Mr. Scott's increasing reputation now recommended him to the dispensers of parliamentary patronage. On the death of Mr. John St. Leger Douglas, member for Weobly (a borough in Herefordshire, then in the nomination of Lord Weymouth, but now extinguished by the Reform Act of 1832), Mr. Scott received, through his friend Lord Thurlow, an offer from Lord Weymouth of the vacant seat; of which negotiation Mr. John Surtees, Lady Eldon's brother, has made this memorandum: —

"When Lord Thurlow, at Lord Weymouth's request, offered Lord Eldon a seat in the Commons for Weobly, Lord Eldon told Lord Thurlow that he could only accept it on one condition, that his conduct in parliament should be entirely independent of Lord Weymouth's political opinions. Lord Thurlow's reply was,

'For this I stipulated; and if there had been any difference between Lord Weymouth and me on this point, his Lordship must have sought some other messenger.'"

The new writ was moved on the 6th of June 1783, and Mr. Scott went down to Weobly as candidate. The following particulars of his election, which took place without opposition, are from the Anecdote Book, with some additions from his communications to Mrs. Forster: —

"When I first came into parliament I was elected for Weobly in Herefordshire. About that period there were many meetings in different parts of England, for promoting what was called Reform in parliament. Lord Surrey, afterwards Duke of Norfolk, was at that time a great reformer; notwithstanding which, he spared neither pains nor money to carry elections at various places, in order to form a great parliamentary interest: and he often condescended to do things very inconsistent with what ought to be the conduct of a man of high birth. He either stood at that time, or took a strong part with some person who did stand, as a candidate for Hereford, and condescended, when he was somewhat inebriated, to ride into that city on a cider cask. He made a long speech in favour of parliamentary reform, and illustrated what he stated, by calling the attention of his audience to the fact, that a Mr. Scott, a Newcastle-upon-Tyne gentleman, a young barrister, totally unknown to the people of Weobly, was to be elected there by the influence of a nobleman."

"When I got to Weobly, I inquired what was the usual mode of proceeding there, and I was told that I

was to go first to the house that contained the prettiest girl in the place, and give her a kiss. This I thought was a very pleasant beginning. I did so, and then went to the different voters. When I presented myself on the hustings, a very old man addressed me, stating that I was, as he understood, a lawyer, and ought to be able to give them a speech, which was what they had not heard from the hustings for thirty years; and he adverted to what Lord Surrey had said about me at Hereford. I accordingly got upon a heap of stones, and made them as good a speech upon politics in general, as I could, and it had either the merit or demerit of being a long one. My audience liked it, on account, among other things, of its length. I concluded by drawing their attention to Lord Surrey's speech. I admitted that I was unknown to them. I said that I had explained my public principles, and how I meant to act in parliament; that I should do all I had promised, and that though then unknown to them, I hoped I should entitle myself to more of their confidence and regard than I could have claimed, if, being the son of the first Duke in England, I had held myself out as a reformer whilst riding, as the Earl of Surrey rode, into the first town of the county, drunk, upon a cider cask, and talking, in that state, of reform. My audience liked the speech, and I ended as I had begun, by kissing the prettiest girl in the place; very pleasant, indeed. Lord Surrey had often been my client, even at that early period of my life. He had heard of, or read, my speech; and, when I met him afterwards in town, he good-humouredly said, 'I have 'had enough of meddling with you, I shall trouble 'you no more.'"

Of this visit to Weobly the Anecdote Book further relates what follows: —

"I lodged at the Vicar's, Mr. Bridge's. He had a daughter, a young child, and he said to me, 'Who knows but you may come to be chancellor? As my girl can probably marry nobody but a clergyman, promise me you will give her husband a living when you have the seals.' I said, 'Mr. Bridge, my promise is not worth half a crown, but you may have my promise.'" It will be seen hereafter what came of this pledge.

The election took place on the 16th of June. It passed without any further occurrence of note, and Mr. Scott went back to London, member for Weobly.

Mr. John Scott to his brother Henry.

"Dear Harry,

"I was elected on Monday; and the return having been brought up to the House of Commons, I have, as I am told, the right to frank. I venture one of my first therefore to you, to inform you of this matter; but, as the Post Office does not know it, I seal up this for fear they scruple the delivery of it without 4*d.* paid. I shall take my seat on Friday. I do not write to my mother and sisters till after that, lest there should be a difficulty about the postage.

"It is possible I may be out of parliament in a few weeks again; but this is to be perfectly snug. The King and the ministry have quarrelled, the ministry are likely to be out. This I have from authority I am not at liberty to mention, and therefore *you* must not mention it. If they go out, parliament will be dissolved.

"Yours affectionately,

"JOHN SCOTT.

"Lincoln's Inn, Tuesday Night (17th June 1783)."

In the vacation of this year (1783), William Scott, who appears to have been then on a tour in South Wales, was seized at Neath with an illness which put

his life in danger. Under this apprehension, he wrote some papers to be transmitted to his brother John, of which a few extracts are subjoined.

* * * * *

"My great comfort is to write on to my dearest Jack, and about my wife. Act for me. *Wife, child.*. She knows I recommend you to her case.

"Object of my life to make sisters easy.

"Save * * * from ruin if we can.

"Give my love to Mrs. Scott and John.

"Protect my memory by your kindness. Life ebbs very fast with me; my dying thoughts are all kindness and fraternal love about you."

"While sensation remains, I think on my dearest brother, with whom I have spent my life. I die with the same sentiments. As the hand of death approaches, it is a consolation to think of him. Oh, cherish my wife! if you loved me, be a brother to her. You will have trouble about my affairs, you will not grudge it. Oh, take care of her; I leave you that duty. It is the last relief of my failing mind. Cherish my memory. Keep * * * from ruin if you can by any application of any part of my child's fortune that is reasonable.

"Once more farewell. God bless you."

A favourable change, however, presently occurred, which removed any necessity for the transmission of these papers to Mr. John Scott as matter of business, though the letters just quoted appear to have been afterwards sent in testimony of the warmth and earnestness of the writer's feelings. In a few days the invalid was able to write to his brother as follows:

"Ship and Castle Inn, Neath,
"Dear Brother John, Glamorgan. Friday, Sept. 5.

"I desired my wife to write you an account of the wretched situation I am in. It has pleased God to visit me with a violent bilious fever. You, who know what a wretched constitution I possess, will easily guess the effect of

such a disorder upon me.* The violence of the fever has in some degree remitted; but it has reduced me to such a state of weakness and languor, that I have reason to be prepared for the worst consequences. God alone knows whether I shall be able to leave the inn where I am lying; but I have lived a full week longer than I expected, and therefore am willing to entertain some hope that God may be willing to spare me a little longer. I am reduced to a most frightful degree, so that I believe you would hardly know me, my legs being so wasted that I am unable to walk across the room. Last night for the first time I got a little disturbed sleep without laudanum. My poor wife is my nurse. I have no servant with me, and have to depend upon the poor attendance that is to be met with in a Welsh inn. A Scotch physician visits me, and has kept me hitherto from the grave by Madeira, which the kindness of the neighbouring gentlemen furnishes me. I have settled my affairs as well as my miserable condition would allow me to do it. You and my wife are executors; I have made some provision for the comfort of my mother and sisters, and done as much as I thought just to save * * * from ruin. It has been the greatest consolation of my most melancholy hours, while I thought death was advancing hastily upon me, to write a number of papers to you, which will be directed to you in case it pleases God to take me hence. They will show you how much you have been in my thoughts to the very last. Pray write to me when you come to town; it will be a great cordial if I am alive; call at our house and inquire after my

* Note by the present Earl. — These homely effusions prove the unreserved sincerity of his fraternal affection. The reader will perhaps be led to reflect how little the issues of life and death are in our own hands, when he remembers that although the sufferer had not at this time completed his thirty-eighth year, yet the beloved relative whom he addressed was not doomed to see him descend into the grave until an advanced period of the ensuing century and in the ninety-first of his age, crowned with distinction and honours, but little inferior to those which the younger brother himself had by that time achieved.

child, and acquaint my family with my condition. My love to my sister and nephew.

"Your most affectionate brother,

"W. SCOTT."

This letter is addressed, John Scott, Esq., M. P., Powis Place, London; which indicates that Mr. John Scott's progress at the Bar had already been sufficient to give him the means of leaving Carey Street, for the more agreeable neighbourhood of Queen Square, and of fields then green and uncolonized. His early and unusual success, however, seems not to have exempted him from those misgivings about the permanence of professional fortune, which are apt to overcast an anxious mind, especially during the intervals when employment slackens; for, all who have practised at the Bar well know, that the proverbial uncertainty of the law is not confined to the suitors. The approach of November Term, 1783, seems to have found him in some such desponding mood, apparently aggravated by a fit of ill-health; for, among his papers of that period, there is a letter from his friend John Lee (who, within three weeks afterwards, became Attorney-General) affectionately rallying the spirits of his junior as follows:

"Dear Scott, "Grantham, Nov. 1. 1783.

"Your letter, which I received this minute, was a very cheering one to me. But keep up your spirits, and let it not be said that a good understanding, and an irreproachable life, and uncommon success, and every virtuous expectation, are insufficient to support tranquillity and composure of mind. If you are cast down, who is to hold up? In a few days I hope to meet you in good health and good heart, and in the mean time I remain,

"Your faithful and affectionate

"J. LEE."

The succeeding particulars, which further illustrate the state of Mr. Scott's mind at that time, are from the accurate pen of the present Earl:—

"Nearly ten years had now elapsed since the birth of his eldest son, which had been followed by a long illness of the mother. In the interval that had now elapsed, their family had had no increase; but at the close of October 1783, Mr. Scott had found himself compelled to return to London for the commencement of the law term, leaving Mrs. Scott in daily expectation of her confinement, under the hospitable roof of his brother Henry Scott at Newcastle."

"His anxiety was soon relieved; for, on the first of November, the same day on which his friend John Lee had addressed to him the foregoing letter from Grantham, Mrs. Scott gave birth to her second child, who received, after her mother, the name of Elizabeth. This is the present Lady Elizabeth Repton."

The 11th of November was the first day of that memorable session, in which George III. overset the Coalition ministry. Adverse, however, as was the disposition of the Sovereign, the government of Lord North and Mr. Fox had the eager good wishes of the young Prince of Wales, who had now attained his majority. With Mr. Fox he had been cultivating a personal friendship; and some good will subsisted between H. R. H. and Lord North. Lord Eldon's Anecdote Book relates, that

"On some occasion Lord North had made himself a party, at the Prince's desire, to reconcile the King and the Prince, relative to some matter which had caused some uneasy feelings between them. Lord North succeeded, and called upon the Prince to in-

form him of that, and addressed him to this effect: 'Now let me beseech your Royal Highness in future to conduct yourself differently. Do so on all accounts—do so for your own sake—do so for your excellent father's sake—do so for the sake of that good-natured man Lord North, and don't oblige him again to tell the King, your good father, so many lies as he has been obliged to tell him this morning.'"

The address, in answer to the opening speech from the Throne, was agreed to, in both Houses; but, in the House of Commons, on the 20th of the same month, when Mr. Fox's India bill had been read the first time, and a motion was made to appoint that day se'nnight for the second reading, the two great parties of Mr. Fox and Mr. Pitt began avowedly to marshal themselves, in the array which they continued to exhibit under those respective leaders for almost a quarter of a century. The debate, though not carried to the issue of a division, was signalized by the maiden speeches both of Mr. Scott and Mr. Erskine.

Mr. Scott expressed an apprehension that the tendency of the bill was dangerous; but said, that he desired to defer his final opinion until further light should have been thrown upon the subject: after which, as he was attached to no particular party, he would vote as justice should seem to him to direct. He thought the time allowed for the examination of the subject was inconveniently short. The speech from the Throne had called on the House to consider and deliberate; but the evident object of the Minister was, that, instead of considering, they should conclude, and, without deliberation, decide. (23 Parl. Hist. 1239.)

Mr. Fox himself replied to Mr. Scott; and, according to the Parliamentary History (p. 1241.), "expressed a high opinion of his abilities and his goodness. Though he had not had the pleasure of hearing him speak before in that House,

yet he was not a stranger to his eloquence, and did not doubt of hearing it employed at all times on the side of equity. He could not, however, forbear taking notice of one thing that had fallen from the Hon. Gentleman's mouth. He had observed that, before one could decide it was necessary to deliberate; but how had he acted in the instant business? Not, surely, consistently with the maxim he had laid down; for, without any opportunity of deliberating, he had ventured to give his decision; and, he thought, with a good deal of positiveness." (23 Parl. Hist. 1239, &c.)

This imputation, it is obvious, was merely a rhetorical one: as the only "decision" which Mr. Scott "had ventured to give," was against "deciding" too precipitately. He had simply been applying his favourite apophthegm "*sat cito si sat bene.*"

His next speech in the House of Commons, which was on the 8th of December 1783, against the third reading of the India Bill, appears, from the report of it in the Parliamentary History, to have been vastly more ambitious than successful. It contained some ingenious argument, but was overrun with quotations and far-fetched allusions, neither suited to the taste of his auditors, nor congenial with the dry nature of the subject.

He began by deprecating the notion, that he was a lawyer ready to advocate in that assembly any cause which he was paid to support; and declared that such a practice would be repugnant to his nature. He assured the House that it was not his intention to trouble them except upon what he might deem to be occasions of very great importance, but the present occasion he considered to be of such a kind; and he therefore thought it his duty to deliver his sentiments upon it —the solemn sentiments of his heart and conscience. After this exordium, he proceeded to argue against the bill upon several grounds, the chief of which were, that there existed no necessity for so strong a measure, and that it would in-

crease, beyond all bounds, the influence of the Government. He would not say that there were no circumstances in which Parliament might infringe upon a charter; the safety of the country might require such a proceeding in some cases; and the territorial property and imperial power of the East India Company established a very essential difference between them and any other chartered body; but, in the present case, no necessity had been made out. He spoke in respectful terms of Lord North, and more highly still of Mr. Fox; but even to Mr. Fox, it was not fitting that so vast an influence should be intrusted. As Brutus said of Cæsar—

> " —— he would be crown'd!
> How that might change his nature, — there's the question."

It was an aggravation of the affliction he felt, that the cause of it should originate with one to whom the nation had so long looked up; a wound from him was doubly painful. Like Joab, he gave the shake of friendship, but the other hand held a dagger, with which he despatched the Constitution. Here Mr. Scott, after an apology for alluding to Sacred Writ, read, from the Book of Revelations, some verses which he regarded as typical of the intended innovations in the affairs of the English East India Company:—" And I stood upon " the sand of the sea, and saw a beast rise up out of the sea, " having seven heads and ten horns, and upon his horns ten " crowns. And they worshipped the dragon, which gave " power unto the beast; and they worshipped the beast, " saying, Who is like unto the beast? Who is able to make " war with him? And there was given unto him a mouth " speaking great things; and power was given unto him to " continue forty and two months."—' Here,' said Mr. Scott, ' I believe there is a mistake of six months—the proposed duration of the bill being four years, or forty-eight months.' —" And he caused all, both small and great, rich and poor, " free and bond, to receive a mark in their right hand or in " their foreheads."—' Here places, pensions, and peerages, are clearly marked out.'—" And he cried mightily with a " strong voice, saying, Babylon the Great "—' plainly the East India Company '—" is fallen, is fallen, and is become

" the habitation of devils, the hold of every foul spirit, and " the cage of every unclean and hateful bird."

Mr. Scott observed, that these invasions by Ministers upon the rights of the Company were worse than those general warrants, which were happily got the better of some years ago; for those warrants alleged a cause of violence; but the bill against the Company alleged not any special act of delinquency. He said that illegal acts of power had been borne in this country, and might probably be borne again; but that illegal acts, under colour of law, were what the country would never bear: and he referred to a passage in Thucydides (Book I. ch. 79.), where the Athenian ambassadors observe to the Lacedæmonian magistrates, that men are much more provoked by injustice than by violence, inasmuch as injustice, coming as from an equal, has the appearance of dishonesty; while mere violence, proceeding from one stronger, seems but the effect of inevitable necessity. He reflected on those parliaments of former times, which had attempted violent and unconstitutional acts, and showed the mischiefs which had arisen from those attempts. He vindicated the conduct of the East India Directors, contending that their instructions to their servants had been excellent, and that not they, but their servants, had been in fault; and recommending that the powers of the Directors, if not sufficient to give them the control which was necessary, should be enlarged. The effect of the new constitution was a doubtful one. The new Directors now proposed might be, in their turn, pronounced inadequate to the government of so remote a country, and then,

" de te
Fabula narratur," ——

not even " mutato nomine." The alleged bankruptcy of the Company had not been proved, and time ought to be given for inquiring into the fact. They cried out for some respite — they pleaded, like Desdemona,

" Kill me to-morrow — let me live to-night
But half an hour!"

When that prayer was rejected, a deed was done, which was repented too late. It had been observed that the Crown had,

in reality, enjoyed the power of directing India affairs, through the medium of the proprietors. If so, why should not the Ministers of the Crown take a share of the blame for the misconduct of those affairs? It was a new thing to see the persons who had objected to the Act of 1773, as a precedent for encroaching on the rights of chartered companies, now quoting that very Act as a reason for supporting the bill under consideration. It was thus that one precedent begat another; and that the beginning of evil was as the letting out of water. The great plea for taking the power out of the hands of both the Proprietors and the Directors, was that they clashed with one another. But would it be said, that when co-operating powers interfered, there was no remedy but to destroy them both, and to establish a new one on their ruins?* .

" To this singular display of pedantic pleasantry," (says the Law Magazine, No. xli.) " the House lis- " tened in mute amazement; and Sheridan retorted " with such point and wit on the absurd jumble of " Scripture and Shakspeare in the mouth of a lawyer, " that he never ventured on a repetition of similar " topics." His vocation, undoubtedly, was not for rhetorical embellishment; and he evinced his judgment in forthwith desisting from this flighty style, (into which he had probably been seduced by the successful and dazzling example of Mr. Sheridan himself,) and placing his reliance thenceforward on those more substantial faculties in which no man was his superior. He seems, however, to have been mortified and out of humour, for the moment, at the flat reception of his elaborate attempt; for, Mr. Fox having observed, not unkindly, that Ministers " had placed a " learned and eloquent member in the front of the

* See 24 Parl. Hist. 33—37.

"battle, who had certainly acquitted himself ably," Mr. Scott is found asking, rather pettishly, by what authority Mr. Fox assumed to regulate him as to the period of the debate at which he was to speak? Mr. Erskine in return, desired to know in what passage of Mr. Fox's speech there was any attempt to usurp such a control?

Mr. Fox's bill was carried that night in the House of Commons, by a majority of more than two to one, under the altered title of "A Bill for the better Management of the Territories, Revenues, and Commerce of this Kingdom in the East Indies;" but it was lost in the House of Lords, on Wednesday the 17th of December: and with it fell the Coalition Ministry. At twelve o'clock of the following night, Thursday, "a messenger conveyed to the two secretaries of "state" (Lord North and Mr. Fox) "his Majesty's "orders that they should deliver up the seals of "their offices, and send them by the Under Secre-"taries, Mr. Frazer and Mr. Nepean, as a personal "interview on the occasion would be disagreeable to "his Majesty."*

A new administration was formed under Mr. Pitt, who took the offices of First Lord of the Treasury and Chancellor of the Exchequer. The great seal was committed again to Lord Thurlow, and Mr. Kenyon and Mr. Pepper Arden became Attorney and Solicitor General. Mr., afterwards Lord, Grenville was appointed to be Joint Paymaster of the Forces with Lord Mulgrave; and Mr. Dundas, afterwards Lord Melville, to be Treasurer of the Navy.

* 24 Parl. Hist. 226—227. *note.*

CHAPTER VIII.

1783—1788.

OPPOSITION TO MR. PITT'S GOVERNMENT. — SUSPENSION OF SUPPLIES AND OF MUTINY BILL. — PARTY IMPUTATIONS. — SECRETARY OF THE TREASURY. — DISSOLUTION OF PARLIAMENT. — MR. SCOTT RE-ELECTED FOR WEOBLY. — THE SEVEN KINGS. — ANECDOTES OF JURIES. — A SMUGGLER'S DAUGHTER. — DR. JOHNSON'S DEATH-BED ADVICE. — WESTMINSTER SCRUTINY. — IRISH COMMERCIAL PROPOSITIONS. — ROHILLA WAR. — STORIES OF THE NORTHERN CIRCUIT. — MR. SCOTT, CHANCELLOR OF DURHAM. — PERMITS FOR CLARET. — EAST INDIA DECLARATORY BILL. — MR. FRANCIS'S INVECTIVE AGAINST MR. SCOTT AND THE LAWYERS.

THE dawn of Mr. Pitt's power was beset with storms. But he stood high above them in the unbroken sunshine of royal favour, and in no long time, saw the clouds roll off beneath his feet.

Although the new Ministers, in the House of Commons, were under the necessity of vacating their seats on their appointments, and although the near approach of Christmas, concurring with that necessity, gave good ground for an adjournment, the House of Commons, of which the majority was strongly opposed to the new administration, did not think fit to separate for the recess until the Christmas eve, having first carried, on the 22d of December 1783, an address to the Crown, deprecating a dissolution of Parliament, — and, on the 24th, a resolution that the Lords of the Treasury ought not to consent to the acceptance of bills from India except under certain specified circumstances. In the debate on this resolution, some

of the friends of the new government contended, that it was unconstitutional for the House to fetter the Lords of the Treasury in the exercise of a discretion committed to them by an act of the entire legislature; but Mr. Scott, though considering the resolution not to be necessary, admitted that if it had been so, it would not have been unconstitutional; since it was the unquestionable right of the House to advise any executive department of the administration, whatever the authority by which the powers of that department might be constituted.

Having effected the rejection of Mr. Fox's bill for the government of India by seven commissioners, (which, if enacted, was to have been followed by another, providing for various matters, chiefly of detail, but hardly of inferior importance,) the new minister, on the re-assembling of Parliament in January 1784, gave notice of a measure of his own for the regulation of Indian affairs, which, in the same week, he introduced. The partisans of Mr. Fox and Lord North, forming, as they did, a large majority of the House of Commons, now opposed themselves systematically to the progress of public affairs under Mr. Pitt's administration. They came to several decisions, offensive as well as defensive, prohibiting the payment, toward any service already voted, of any money not appropriated by Act of Parliament: — deferring, to the end of February, the second reading of the Mutiny Bill, — rejecting the India Bill of Mr. Pitt, — expressing, by way of resolution, their dislike to the continuance of the ministry, and voting that this last resolution should be humbly laid before the King. A counter-address was voted by the Lords, on the

4th of February, assuring the Crown of their support in the just exercise of its prerogatives: and on the 10th, Mr. Fox, in the House of Commons, proposed that until it should be known what answer the King would give, or whether any at all, the supplies should be suspended. The subject of supply was accordingly postponed till the 18th, when, upon Mr. Pitt's communicating that the King had not thought proper to dismiss his ministers, Mr. Fox moved a further postponement, which was carried. Mr. Scott, on this occasion, spoke shortly in favour of the ministers; observing that they had the people on their side, many of whom, in their addresses to the Throne, held a very different language from that of their representatives in Parliament. On the 20th, an address was carried, by a majority of twenty-one, for a united and efficient administration: and on the 1st of March another was voted, by a reduced majority of twelve, for the removal of the ministry then existing. To each of these addresses the King sent a temperate, but unyielding answer. On the 5th of March, Mr. Fox moved a still further postponement of the annual Mutiny Bill, the Act then in existence being to expire on the 25th; but he carried this postponement by a majority of only nine: and on the 8th, when he moved a representation to the King on the state of public affairs, the majority against ministers was found to have dwindled to one.

As usually happens when parties are nearly balanced, each side charged corruption upon the adversary. Mr. Scott writes thus to his relations in the North:—

"No dissolution to-day—life promised by Pitt till Monday, and no longer promised; but whether to be enjoyed, doubtful. Both our Newcastle members voted against us last night; but the majority, you see, crumbles; and if it was not for North's myrmidons which he bought with the treasury money, we should have a complete triumph. I told the Chancellor to-day, that he ought to resign, or dissolve us. But what will be done, or what will become of the country, God knows.

"Believe me with love, &c. &c.

"Yours,

"Saturday, Lincoln's Inn. "JOHN SCOTT.

"I have had the offer of two other seats in Parliament gratis—but I shall keep my old one."

This letter gives us the imputation made by the Tories:—the Anecdote Book records the counter-blast of the Whigs.

"During the debates on the India Bill, at which period John Robinson was secretary to the Treasury, Sheridan, on one evening when Fox's majorities were decreasing, said, 'Mr. Speaker, this is not at all to be wondered at, when a member is employed to corrupt every body in order to obtain votes.' Upon this there was a great outcry made by almost every body in the House. 'Who is it? Name him! name him!' 'Sir,' said Sheridan to the Speaker, 'I shall not name the person. It is an unpleasant and invidious thing to do so, and therefore I shall not name him. But don't suppose, Sir, that I abstain because there is any difficulty in naming him; I could do that, Sir, *as soon as you could say Jack Robinson.*'"

On the 24th of March the King prorogued the Parliament, which he dissolved on the following day. The measure was attended with complete success.

The coalition had been very distasteful to the people: they were glad to show their loyalty at the expense of an obnoxious House of Commons; and they answered the appeal of their Sovereign by returning a large majority in aid of his administration. The Anecdote Book records a somewhat curious opinion of the great leader of the Opposition, respecting one of the causes of his party's unpopularity:

"Fox said, that *Sayers's caricatures* had done him more mischief than the debates in Parliament or the works of the press.—The prints of Carlo Khan, Fox running away with the India House, Fox and Burke quitting Paradise when turned out of office, and many other of these publications, had certainly a vast effect upon the public mind."

At this general election, Mr. Scott was again returned for the borough of Weobly. For the purpose of presenting himself in person, he was obliged, as the election took place during the Circuit, to make a long journey across the country; by which, however, he not only paid the due homage to his constituents for his own election, but, as it fell out, was instrumental in saving another seat from a candidate of the opposite party. This incident he relates in the following terms:—

"When I was a second time elected for Weobly I was obliged to leave Lancaster assizes, and to do what I could then ill afford—to leave my briefs and fees. I stopped at a town (the last stage before I should come to Weobly—I think Ludlow*) to change my clothes, and have my hair dressed before I should enter Weobly. This was very soon after Fox's India

* Leominster, not Ludlow, was the borough where Sir Gilbert Elliott stood and was defeated. Leominster is one stage from Weobly. — *Note to second edition.*

Bill had raised such a ferment in the kingdom; and, that bill having proposed that seven persons should have the whole direction of the East India Company's affairs, they got, in the debates, the appellation of Fox's seven kings. Whilst the hairdresser was preparing my head for my entrance into Weobly, he said, 'Sir, we understand that you were in the last Parliament. There is a Sir Gilbert Elliott, a candidate here; some say he was one of the seven kings, some say he was not; but we are all agreed, that if he was one of the seven kings, we would have nothing to say to him; and as we are desirous to be sure about it, and as you must know, Sir, will you be so good as to excuse my freedom in asking whether he really was one of the seven kings?' I told the hairdresser that he certainly was one of the seven kings. 'Why then,' said he, 'if I might only tell the people that you assured me he was, he has no chance. May I tell them?' 'Yes,' said I; 'truth is truth, and I see no objection to this truth being told as coming from me.' He made proclamation of this upon leaving me, and Sir Gilbert was thereupon entirely defeated."

The new Parliament assembled on the 18th of May 1784: and the principal legislative business of its first session was the enactment of bills, for the government of India and for the regulation of various other matters connected with the affairs of the East. In these measures Mr. Scott took no active part, — nor did he enter into the discussions of that session upon the Westminster scrutiny.

The professional rank conferred on him in the preceding year, had secured him in the lead of his circuit;

and to its recollections, both grave and gay, he always delighted in recurring.

"I got," said he, to Mrs. Forster, "into a dilemma with one cause at Lancaster. The plaintiff was a farmer, of some substance (amazingly fond those people are of going to law), and the other party was son of a farmer, of some substance also, who had run off with the daughter of the plaintiff, and it was for damages for loss of her services this action was brought. Well, the instructions the farmer gave me were these: — 'Mind, Lawyer Scott, you are to say that the man who runs away with another man's daughter is a rascal and a villain, and deserves to be hanged.' — 'No, no, I cannot say that.' — 'And why not? why can't you say that?' — '*Because I did it myself;* but I will tell you what I will say — and I will say it from my heart — I will say, that the man who begins domestic life, by a breach of domestic duty, is doubly bound to do every thing in his power to render both the lady and her family happy in future life; *that* I will say, for I feel it.' — Well, he was obliged to give up that point: and the jury, after a deliberation of nine hours, gave a verdict for 800*l.* damages."

The circumstances which induced this large verdict are thus minuted in the Anecdote Book: —

"The plaintiff knew that the defendant's father wished the young folks to come together; but, if possible, that their union should take place, without his giving to his son, the defendant, any fortune; and that if we could only satisfy the jury that such was the case, and get considerable damages, considerable in their rank of life, the defendant's father would not let

him go to gaol; and there, probably, would be a marriage satisfactory to all. I was leading counsel for the plaintiff. The daughter appeared as a witness: she was extremely beautiful, and so conducted herself as to interest all present in her favour. I managed to let the jury know what good might be done if good damages were given. It was difficult to do this; and that excellent man, my friend Mr. Justice Wilson, frequently interrupted me, with expressions of disapprobation upon the nature of my opening speech. After he had stated to them the evidence, and the law, the jury retired; they were out for many hours, and at length came into court and said, they found for the plaintiff with 800*l.* damages; considerable damages against a farmer's son. When I was walking from court out of the Castle at Lancaster, a man tapped me on the shoulder, and said, 'Lawyer, with your law I beat the judge and the other eleven jurymen.' 'My friend,' said I, 'how was that managed?' He said he was not to have been on the jury; he had leave from the judge, as the assizes were nearly at an end, the evening before, to go home; but that he had come into court to bid good bye to some other juryman; that he had bought a bottle of rum to take home with him, which he had in his pocket, and coming into court, they got him sworn on the jury in the cause. That, when they retired, eleven were for the judge's law, and he was for Lawyer Scott's law. That they had long debated. That he occasionally sipped a drop of his rum; and when he found they would not agree with him, he told them he would live upon the rum as long as he could, and that they should not have one drop of it, and he

would see who would last out longest. 'After several hours,' he said, 'they agreed with me and you, lawyer, against the judge, — and I hope the young folks will get married.' They were almost immediately married, and the young man, the defendant's father, paid as much of the 800*l.* as he could."

There are other and more ludicrous instances, which Lord Eldon was wont to relate of obstinacy, stupidity, and even corruption, in jurymen. "I remember," says he, in the Anecdote Book, "Mr. Justice Gould trying a cause at York; and when he had proceeded for about two hours, he observed, 'Here are only eleven jurymen in the box: where is the twelfth?' — 'Please you, my Lord,' said one of the eleven, 'he is gone away about some business, but he has left his verdict with me.'"

"At the assizes at Carlisle, the plaintiff having brought an action for slander against the defendant my client, his counsel proved that my client had called the plaintiff a thief, and stated that as the plaintiff did not want great damages, but only to vindicate his character, he would be content with 10*l.* damages, which was certainly as much as he was entitled to. Upon my cross-examining the plaintiff's witness, it came out that the plaintiff himself had said the defendant was a highwayman and a robber. I submitted, therefore, to the jury, that if legal justice required that my client should pay 10*l.* for calling the plaintiff a thief, moral justice required that the plaintiff should pay one sum of 10*l.* for calling my client a highwayman, and another 10*l.* for calling him a robber, and that therefore they should not find a verdict with 10*l.* damages for the plaintiff,

but a verdict with 10*l.* damages for the defendant. However morally just this obviously was, the judge, Mr. Justice Heath, was excessively angry with me, and told the jury that it was (as it certainly was) clearly against law. The jury, however, gave a verdict for the defendant with 10*l.* damages; the judge, again and again, remonstrating with them; but no other verdict would they find. As the verdict was good for nothing, I advised with my client to close with a proposal that the plaintiff should drop his action, each party paying his own costs, and so close the matter.

"The greatest objection to the trial by jury appears to be founded upon the fact, that men of low condition serve as jurymen. No man can have gone a circuit without seeing twelve men upon a jury, who, if they did not implicitly follow the directions of the judge, would be quite incompetent to form an opinion, upon any case at all complicated in the facts which constitute it. The lower orders of jurymen too are easily corrupted. I remember at an alehouse, where some of us dined upon a Sunday after seeing Corby, in Cumberland, a person whom Serjeant Bolton treated with a good deal of milk punch, told the serjeant that he was upon the jury at Carlisle, and would give him verdicts wherever he could. Another juryman told me that he gave the same serjeant all the verdicts he could, because he loved to encourage a countryman: he and the serjeant were Lancastrian born.

"Coming down the steps from the Exchequer into Westminster, I followed two common jurymen, when I was a law officer of the Crown, and I over-

heard one say to the other, 'I think we have given the Crown verdicts enough; we may as well give them no more.' I touched them upon the shoulders, and told them they should have no more trouble, for I should challenge them in all causes that remained."

"Once," said he, "I had a very handsome offer made to me. I was pleading for the rights of the inhabitants of the Isle of Man. Now I had been reading in Coke, and I found there that the people of the Isle of Man were no beggars*; so in my speech I said, 'The people of the Isle of Man are no beggars; I therefore do not *beg* their rights, I *demand* them.' This so pleased an old smuggler who was present, that when the trial was over, he called me aside and said, 'Young gentleman, I will tell you what: you shall have my daughter if you will marry her, and one hundred thousand pounds for her fortune.' That was a very handsome offer: but I told him that I happened to have a wife, who had nothing for her fortune; therefore I must stick to her."

In the December of this year, 1784, Dr. Johnson died. "He was a good man," said Lord Eldon to Mrs. Forster: "he sent me a message on his death-bed, to request, that I would make a point of attending public worship every Sunday, and that the place should be the Church of England."

In the succeeding Session, that of 1785, when the Westminster scrutiny was discussed again, and with all the heat of party, Mr. Scott stood forward to maintain the law, even against the administration

* Lord Coke's words are, "The inhabitants of this isle are religious, industrious, and true people, without begging or stealing." — 4th Inst. ch. 69. concluding paragraph.

with whom he was accustomed to act. At the general election, Lord Hood, Mr. Fox, and Sir Cecil Wray had been the candidates. At the termination of a poll, which had lasted from the 1st of April to the 16th of May, 1784, Sir C. Wray stood lowest. At his requisition, the High Bailiff, being the Returning-Officer, granted a scrutiny, and made a special return of the facts to the sheriff. A resolution was moved in the House of Commons on the 24th of the same month of May, that the High Bailiff ought to have made his return of two Members for Westminster; but as this would have implied a censure on the High Bailiff unheard, Sir Lloyd Kenyon, the Master of the Rolls, recommended, and Mr. Pitt supported, a different course, in order that the High Bailiff might have an opportunity to attend at the Bar, and defend his conduct. Mr. Scott concurred in this view. The High Bailiff afterwards attended accordingly; and it was resolved that he should proceed in the scrutiny with all possible despatch. When the House reassembled for the Session of 1785, the scrutiny was still unfinished; and it appeared, from the examination of the High Bailiff, that two years more would probably be insufficient to complete it; eight months having already been consumed upon two of the seven parishes of Westminster, and this without the completion of the inquiry even as far as those two were concerned. It was now therefore moved by the Opposition, that the return should be made without delay; upon which it was proposed from the other side, by way of amendment, to acquaint the High Bailiff that the resolution of the preceding Session did not preclude him from making his return when he should think

himself justified in doing so, and that the House was not satisfied that all possible expediton had been used by the parties. This amendment, though supported by ministers, was carried by a majority of only 29 :— in less than a fortnight another motion was made for an immediate return, which was rejected by a majority of only 9, and in a few days afterwards renewed and carried: —and, on the 9th of March, (the High Bailiff having meanwhile made his return,) the House proceeded to discuss a motion of Mr. Fox, for expunging from the journals the former proceedings respecting the scrutiny. The ministers prevailed to negative this last motion; but they had not the support of Mr. Scott, who, though he had voted in the preceding Session against a course involving censure on the High Bailiff unheard, had participated in none of the subsequent resolutions for the continuance of the scrutiny; and now, by a speech in favour of the motion for erasing them from the journal, gave a proof, that with him the wishes of his party, and of the minister who headed it, were of less weight than the considerations of principle and of constitutional law. He established, by a conclusive argument upon the statutes for regulating elections, from the reign of Henry IV. to that of George III., the legal doctrine, "that the election must be *finally* closed before the "return of the writ, and that the writ must be "returned on or before the day specified in it." But he added,

That notwithstanding his own persuasion as to the clearness of the law on this head, the recent proceedings demonstrated the necessity of some additional enactment, which should put it out of the power of future candidates to harass

each other, or of future ministers to keep counties or towns unrepresented under the colour of scrutinies. This, however, might be a work of time: the expunging of the resolutions ought to be the work of that night, and should have his hearty support.

Mr. Fox was not ungrateful for this assistance. After noticing the arguments of other lawyers in that debate, he said, —

> One learned gentleman in particular (Mr. Scott) had entered into the whole of the case with a soundness of argument, and a depth and a closeness of reasoning, that perhaps had scarcely been equalled in the discussion of any topic within those walls that turned at all on the statute and common law, on the analogy of writs, and the sort of legal references that had been made in the course of the debate. So well and so ably indeed had that learned gentleman argued it, that nothing like an answer had been offered to any one of his appeals to his brethren of the long robe, or any one of his doctrines. In truth, he was convinced it was out of the power of ingenuity itself to overthrow the positions laid down by that learned gentleman. (25 Parl. Hist. p. 129.)

As soon as the division was over, Mr. Fox pressed for some legislative measure to prevent the like mischief thereafter: and Mr. Pitt, probably not uninfluenced by Mr. Scott's declaration of its necessity, assured the House that a bill should be speedily introduced for that purpose, — not however as a declaratory, but as an enacting law. The result was, the statute 25 G. 3. c. 84., "to limit the duration of polls "and scrutinies," and to make other regulations touching elections.

In conversation with Lord Eldon toward the close of his life, Mr. Farrer said to him, "I have often wished to ask you, how you and Fox got on in the

House of Commons. Was he violent against you?" — "No: on the contrary, Fox never said an uncivil word to me during the whole time that I sat in the House of Commons; and I'll tell you to what I attribute that. When the legality of the conduct of the High Bailiff of Westminster was before the House, all the lawyers on the ministerial side defended his right to grant the scrutiny. I thought their law bad, and I told them so. I asked Kenyon how he could answer *this*, that every writ of commission must be returned on the day on which it is made returnable? He could not answer it. I made a pretty long speech: I know that my law was right, and I believe that I made some impression upon some members of the House. Fox afterwards came to me, and said something very civil and obliging."

The legislation of the years 1780 and 1782 had established the commercial and political independence of Ireland; but it still remained to settle a code of regulations for the commerce between Ireland and Great Britain. For this purpose, a series of resolutions was moved by Mr. Pitt, in May 1785, against which a violent opposition was raised in both countries; and then it appears to have been, that the unhappy phrase "insult to Ireland," first suggested itself. The conditions required from the smaller country, for the advantages communicated by the larger, were angrily represented as affronts and degradations. It had been stipulated on the part of Great Britain, that so long as the proposed reciprocity should continue, the navigation laws of the two kingdoms should be the same, Ireland adopting the

code already enacted by Great Britain, and keeping pace with her in any future regulations. This proposal was impugned as an inroad on the independence of Ireland, and Mr. Fox lent the weight of his great reputation to the delusion. On the 24th of May,

Mr. Scott defended the proposed arrangement, and showed that Ireland was no more degraded by a covenant to maintain her regulations on a level with those of Great Britain, than Great Britain by a covenant to equalize the intercourse between her and Ireland.

With the British Parliament, these even-handed and conciliatory arguments obtained a complete acceptance, and a bill was introduced for effectuating the resolutions. But the representatives of the sister-kingdom were less easy to be reasoned with; and a similar bill, presented to their Parliament, was carried in the Irish House of Commons by a majority of only 19. A victory so close, on a measure so important, was regarded in those days as a defeat: and the Government, after reading the bill a first time, declined to proceed with it.

In 1786, the early part of the Session produced no business wherein Mr. Scott took any particular interest. He went the Circuit as usual.

The affairs of India, and especially the administration of Mr. Hastings, were now become matters of considerable interest in the House of Commons. The proceedings of our Indian Governments had been made the subject of inquiry in the Session of 1782; but without practical effect. In 1785 the matter had been revived: and in 1786, accusations against Mr. Hastings were pressed upon the House by Mr. Burke,

Mr. Fox, and other leading members of opposition, with a view to impeachment. In the debate of the 2d of June, 1786, on the conduct of the Rohilla war, an attempt was made to pass a general resolution against Mr. Hastings, without a specification of the particular grounds of it. This Mr. Scott resisted, in a speech, which, though short, is deserving of notice, both for the principle enforced by it, and because the answer given to it by Mr. Fox attests the high estimation which Mr. Scott had already attained.

After objecting to the expedient of consolidating allegations, individually insufficient, into a general charge, for the purpose of carrying, in the aggregate, a censure of which perhaps no one item would have been supported by a majority of the House if it had been put to the vote singly, Mr. Scott took occasion to animadvert upon an intimation thrown out the day before by Mr. Fox, that he would always *watch* the members of the legal profession in their arguments.

Mr. Fox replied by assuring the House and Mr. Scott, that he had meant nothing more, than that lawyers were apt to infuse the peculiar style of reasoning to which they were habituated at the bar, into their arguments in the House of Commons. "None but a fool or a madman," he said, "would hold the learned profession in contempt. He had a very high respect for it, and for the learned gentleman in particular, whose great abilities and high character entitled him to the respect of every man."

The Indian questions, particularly the charges against Mr. Hastings, continued to employ much of the attention of the House, during the remainder of this and the following session: but Mr. Scott took little part in any of them.

It was probably in the summer of 1786 or 1787, that Mr. Scott was opposed, in an important fishery cause on the circuit, to Mr. Bearcroft, a leader of

considerable practice in London, specially retained for that trial. The Anecdote Book records the circumstances of it as follows: —

"Bearcroft came down to the assizes at Carlisle, with a special retainer of 300 guineas, in a Salmon Fishery cause. I led the cause on the other side; and, at our consultation on the preceding evening, we agreed never to ask a witness a question except in the language and dialect of Cumberland, which Bearcroft could not understand. Accordingly, when I began to cross-examine his first witness, who had said a great deal about the salmon, good and bad, which the fishery had produced in different seasons, I asked whether they were obliged to make 'ould souldiers' of any of them. These words, 'ould souldiers,' to be made out of salmon, puzzled Bearcroft, and he applied to me to give him an explanation of them. I told him that a counsel from London-town, who had, as he had told us over night, amused and instructed himself by reading Horne Tooke's Ἔπεα πτερόεντα, could not surely be at a loss for the meaning of language; and that, at any rate, it was not my business to assist, in the leading of a cause, my adversary, whose abilities and knowledge, &c. &c. He then applied to the judge for an explanation, who told him he could give him none, because he could not conceive what the words meant. After a squabble between the judge and myself, I explained; — but throughout the whole cause there was hardly a question asked by us which did not produce a similar scene. The jury were astonished, that neither Judge nor Bearcroft had wisdom enough to understand what they all so well understood: and they inferred, from Bearcroft's ex-

treme ignorance of what they all so well knew, that he had a rotten cause. We got a verdict, and Bearcroft swore that no fee should ever tempt him to come among such a set of barbarians as the Cumberland men again. N.B. An 'ould soldier' is made by hanging up in a chimney a salmon caught out of due season, when the fish is white, instead of red, and it acquires in the chimney a colour like a soldier's old red coat half worn out."

From this story of a soldier not militant, we pass to one which the Anecdote Book records of a pugnacious barber:

"At Appleby assizes, I cross-examined a barber rather too severely. He got into a great passion. I desired him to moderate his anger, and said that I should employ him to shave me as I passed through Kendal to the Lancaster assizes. He said with great indignation, 'I would not advise you, lawyer, to think of that, or risk it.'"

The two circuit stories which follow are also from the Anecdote Book:

"My old fellow-student Robert Sinclair, afterwards Recorder of York, a very honest Irishman, was shown a Tumulus by an antiquarian in Yorkshire, who proposed a bet, that nobody could show a greater antiquity, — any thing older, — in the King's dominions. Sinclair took the bet, and won it by pointing to the ground on which the Tumulus was raised; which must have been there before the Tumulus could be placed upon it."

"Sir Thomas Davenport was a very dull speaker. Whilst making a very long dull speech to a jury, in Northumberland, a boy, asleep on a window consider-

ably high from the floor, fell, and was reported, though untruly, to be dead. I was at that time Attorney-General of the Northern circuit*: and, at the Circuit Court at Appleby, I indicted him for wilful murder, perpetrated by a long dull instrument, viz. a speech. He was convicted and severely fined."

"When I was on the circuit," said Lord Eldon to his grandson, "and paid a visit to the late Lord Ravensworth, his gamekeeper, in speaking of him, said to me, 'I have lived with Lord Ravensworth 'sixty years, and have never had occasion to be 'angry with him but once the whole time.'"

In 1787, the death of Mr. Justice Willes occasioned a vacancy in the Chancellorship of the Bishopric and County Palatine of Durham: and Lord Thurlow's brother, who had just been translated to that see, bestowed the office on Mr. Scott. The patent is dated 1st March 1787, but the confirmation by the Dean and Chapter appears to have been by some accident delayed, its date being in 1788, November 20.

About the time of Bishop Thurlow's translation to Durham, there flourished in society a gentleman whom his familiars used to call Will Hay. "Will Hay," says the Anecdote Book, "was a commissioner of the Customs, and a very jolly companion of Lord Thurlow. He was also very intimate with Thurlow, Bishop of Lincoln, afterwards removed to Durham, who was Dean of St. Paul's also, and lived in the Deanery. Upon being made Bishop of Durham he took another house, and, there being at that period some difficulty in removing wine without proper per-

* The Circuit-Attorney-Generalship is a jocular office.

mits, so as to secure it against seizure, the Bishop thought he could not do better than to consult Hay, how to act in removing his claret, which he told Hay was very excellent. 'Pray, my Lord Bishop,' says Hay, 'what quantity of this claret have you?' The Bishop said he had about six dozen of it. 'If there is no more,' observed Hay, 'it is very easy to secure it against seizure: you have nothing more to do, than to ask me to dine with you six times before you quit the Deanery House.'"

Mr. John Scott to his Brother Henry.

"July 14. 1787, Lincoln's Inn.

* * * * * *

"My wife being advised strongly to Tunbridge, I travel into the North, *solus*. After Lancaster, I shall return again to Durham to hold my Chancery sittings. During the assizes, I shall leave it to you and Mr. Surtees to dispose of me in point of habitation as you shall agree; but, if I may be permitted to ask it, I confess I should think it most convenient for all parties, if you and he could find me a conveniently situated lodging for the business and consultations, allowing me in feeding hours to divide myself between you; for I am conscious I must be a sad bore in a family, the greatest part of the day, with so many attorneys, &c. about me. You will however let me know beforehand what you determine.—I shall not be at Durham assizes, as my Chancellorship makes it not quite proper for me to attend there."

It is related that when Mr. Scott was Chancellor of the County Palatine, an application was made to him to direct an allowance at college to a minor, a ward of the Court, who would be entitled, when of age, to an income of about 300*l.* a year. Knowing how dangerous it is to a young man to possess just as much as will exempt him from the wholesome neces-

sity of labour, Mr. Scott, on granting the allowance, added this advice:

"You will shortly become entitled to a small property, which may prove to you either a blessing or a curse, according as you use it. It was, perhaps, fortunate for me that I was not situated in my early life as you are now. I had not, like you, a small fortune to look to; I had nothing to depend on but my own exertions; and so far from considering this a misfortune, I now esteem it a blessing; for if I had possessed the same means which you will enjoy, I should in all probability not be where I now am. I would, therefore, caution you not to let this little property turn your mind from more important objects, but rather let it stimulate you to cultivate your abilities, and to advance yourself in society."

The trial of the impeachment against Mr. Hastings at the Bar of the House of Lords began in February 1788, and lasted till April 1795, when it terminated in his complete acquittal. The preparation for it had occupied much of the time of the House of Commons in the sessions of 1787, and of 1787–8; in the latter of which a considerable interest was excited also by some other Indian questions. By this time, the great increase of Mr. Scott's professional reputation had begun to add weight to the opinions expressed by him in Parliament: and this was remarkably indicated in the debate upon the East India Declaratory Bill, introduced on the 25th of February 1788, by Mr. Pitt, under the following circumstances. In the preceding October, when some apprehensions were entertained of a rupture with France, a resolution had been taken

by the British government of sending to the East Indies four regiments of the king's troops, as a permanent force for the protection of those possessions: and this proposal had been received by the Directors as a wise and satisfactory precaution. But as soon as the immediate danger had passed by, they began to be alarmed at the expense, and now sought to shift it from the Company to the public. With this view, they alleged that the sixth section of the India Bill, 24 Geo. 3. s. 2. c. 25., — empowering the Board of Commissioners for the affairs of India "from time "to time to superintend, direct, and controul, all acts, "operations, and concerns, which in any wise relate "to the civil or military government or revenues of "the British territorial possessions in the East In-"dies," in the manner by that act directed, — was not meant to give them the power of imposing upon the Indian revenues the expense of any troops which Government might think fit to send out for the protection of those possessions, unless where such aids were applied for by the Court of Directors. Respecting this construction of the act, which was chiefly grounded on a reference to the seventeenth section of a former statute, the 21st Geo. 3. c. 65., the opinions of several eminent lawyers were taken, and among others, of Mr. Scott and Mr. Erskine: and in order to settle some doubts to which the differences of counsel might be thought to give countenance, Mr. Pitt, on Mr. Scott's advice *, now called upon Parliament to pass an act declaratory of the law. On the 3rd of March, Mr. Erskine and

* See "Strictures on Eminent Lawyers," p. 211. (Anon. Kearsley, 1790.)

Mr. Rous were heard at the Bar of the Commons as counsel for the East India Company against the bill; and a considerable part of Mr. Erskine's address consisted of an answer to the printed opinion of Mr. Scott. The subject being resumed on the 5th, Mr. Scott, — after pleading, as his apology for coming forward on a subject of so much magnitude, the special reference of counsel to his printed opinion, and after claiming credit for a conscientious adherence to his own sense of duty in the course he was pursuing,—proceeded to argue the question on its political, but still more fully on its legal, and on its constitutional grounds. Of the legal and political portions of his speech the interest has passed away with the occasion: but the constitutional passages of his argument, those which relate to the general principles of declaratory legislation, have a permanent value. Upon this branch of the subject, the main objections of his opponents were, "that, in the declaratory form of enactment, Parliament was exercising a judicial function;" (a sort of duty which it must be acknowledged that the House of Commons very seldom discharges with much credit or advantage:) "that if the bill had been expedient at all, it should have been a bill, not to declare, but to explain and amend: and that either an obvious ambiguity in language on the face of the act, or an actual clashing in the decisions of the Courts upon its construction, was requisite to lay a sufficient ground for the introduction of a declaratory law."

"Mr. Scott, in answering the objectors, admitted that Parliament, when it proceeded to pass a declaratory law, was acting in a judicial capacity: and he agreed that this capacity was one in which Parliament ought not to act, except where,

as here, the necessity of the case was unquestionable, and the mischief large enough to justify extraordinary interposition. He admitted, too, that a mere difference of opinion among lawyers, upon the construction of an existing act of Parliament, was not an adequate reason for the enactment of a declaratory law: but he could not agree that an obvious ambiguity in language, or a conflict of judicial decisions, though proper grounds for a declaratory enactment, were its *only* proper grounds. If it were necessary that Parliament should defer its interposition till two clashing decisions had actually taken place, these absurdities would follow: that a long, nay indefinite, delay might occur between the first decision and the second: and that even after both decisions should have been pronounced, one of the parties affected must sustain not only the unmerited loss of his cause and his costs, but the additional mortification of afterwards finding, that the law had in reality been with him at the very time when he was turned round by the Court's misconstruction of it."

Some judgment of the weight which Mr. Scott's argument carried, and of the corroboration which Government derived, upon the legal part of the subject, from the sanction of so eminent a lawyer as he had now become, may be formed from the pains which were taken to combat his printed opinion by the counsel for the Company, and from the pointed manner in which his particular arguments were assailed by Mr. Sheridan, Colonel Barré, and other members of Opposition. In a further debate upon the same subject on the 14th of March, the speech of Mr. Scott was again made the subject of a long and formal attack, by Mr. (afterwards Sir Philip) Francis.

It was not, he said, a legal, but a legislative question: and it was absurd for Parliament to ask of lawyers what it meant by its own act and deed. "In this House, to be sure," continued Mr. Francis, "we have every assistance that learning

"and practice can afford. We have a learned person (Mr. "John Scott) among us, who is universally acknowledged to "be the great luminary of the law, whose opinions are oracles, "to whose skill and authority, all his own profession look up "with reverence and amazement. Well, sir, what inform- "ation have we gained from that most eminent person? I "will not attempt to follow or repeat so long, and, as I have "been told, so ingenious an argument. Ingenuity, it seems, is "the quality which is chiefly wanted and relied on, on the "present occasion. But I well remember the course of it. "The first half hour of his speech, at least, was dedicated to "himself. He told us who he was; he explained to us, very "distinctly, the whole of his moral character, which I think "was not immediately in question; and assured the House "that his integrity was the thing on which he valued himself "most, and which we might with perfect security rely on. "Of his learning, I confess he spoke with more than mode- "ration,—with excessive humility. He almost stultified him- "self, for the purpose of proving his integrity. For the sake "of his morality, he abandoned his learning; and seemed to "dread the conclusions, that might be drawn from an over- "rated opinion of his excessive skill and cunning in his pro- "fession. In my mind, sir, there was no occasion for this "extraordinary parade. The learned gentleman's reputation "in private life, I believe, is unimpeached. What we wanted, "what we expected of him, was his learning, not his cha- "racter. At last, however, he proceeded to the subject of "debate. Here we were all in profound silence: attention held "us mute. Did he answer your expectation? Did you per- "fectly understand him? Did he perfectly understand him- "self? I doubt it much. If he had understood, he could "have explained himself to the meanest capacity. If you "had distinctly understood him, you might distinctly re- "member what he said. Now, setting aside the adept, (I "mean his own profession,) setting aside those who have "been initiated in the mysteries, is there a man here, who "can remember and is able to state the learned gentleman's "argument?—I believe not. For my own part, though it is "impossible for me to listen with more attention than I did,

"I confess I soon lost sight of him. At first, indeed, he "trifled with the subject, in a manner that was intelligible at "least, perhaps dexterous, though not conclusive. He argued "some little collateral points with a good deal of artifice: he "made many subtle argumentative distinctions; he tried, at "least, to involve us in nice, logical difficulties, and to drive "us *ad absurdum* by what he called unavoidable inference, "from false premises. — In short, he attacked or defended "some of the out-posts of the question, with what I suppose "is held to be great ability in Westminster Hall. He skir- "mished well at a proper distance from the main body of the "subject. All this I acknowledge. But when he came at "last to the grand point, at which we had waited for him so "long, at which we had impatiently expected the predominant "light of his superior learning, the decision of the oracle, "did he resolve your doubts? Did he untie, or did he cut "the Gordian knot? Did he prove to you in that frank, "plain, popular way, in which he ought to have addressed "this popular assembly, and which he would have done, if "he had been sure of his ground, did he demonstrate to "you, that the act of 1784, clearly and evidently, or even by "unavoidable construction, gave the power declared by the "present bill? Sir, he did no such thing. If he did, let us "hear it once more. He who understands can remember. "He who remembers can repeat. I defy any man living, not "a lawyer, to recite even the substance of that part of his "argument. The truth is, he left the main question exactly "where he found it."

There is more of this sour ebullition, frothing out against the whole legal profession; but the foregoing specimen of it will probably have satisfied the reader. Its acrimony, and the sort of success which is said to have greeted it among his party, show the soreness of the Opposition at the effective reasoning of Mr. Scott, which their spokesman for that occasion, the supposed author of Junius, — being unable, whether from lack of law or of logic, to deal with it in the

way of argument, — was fain to evade by this effusion of spleen. It may not have been without some recollection of the incompetency for legal disquisition which Mr. Francis so ostentatiously exhibited in this debate, that Lord Eldon, being many years afterwards asked for his opinion about the authorship of Junius, answered, "I cannot tell you who the author is; — but "I can tell you what he is not, — a lawyer."

The declaratory statute was enacted, 28 Geo. 3. c. 8.

CHAPTER IX.

1788—1791.

MR. JOHN SCOTT APPOINTED SOLICITOR-GENERAL, AND KNIGHTED. — SIR PEPPER ARDEN, MR. PITT, AND LORD THURLOW. — PROGRESS OF SIR WILLIAM SCOTT. — THE KING'S ILLNESS: PROCEEDINGS ON THE REGENCY; SOLICITOR-GENERAL'S PART IN THEM: JEUX-D'ESPRIT. — LORD BELGRAVE'S GREEK QUOTATION, AND PARODY ON INCANTATION IN MACBETH. — THE KING'S RECOVERY: HIS FAVOUR TO THE SOLICITOR-GENERAL. — LORD THURLOW AND THE REGENCY. — SPECIMEN OF LORD THURLOW'S JOCULAR CONVERSATION. — ANECDOTES OF ST. JAMES'S. — DINNER HOURS OF LAWYERS. — FORENSIC STYLE OF SOLICITOR-GENERAL. — PLEASANTRIES OF GEORGE III. AND OF THE SOLICITOR-GENERAL. — GOVERNMENT CASES. — SPELLING OF "SCOTT." — SOLICITOR-GENERAL'S INTERPOSITION AGAINST OPPRESSION OF AN INDIVIDUAL BY THE HOUSE OF COMMONS. — DISSOLUTION OF PARLIAMENT: IMPEACHMENT NOT THEREBY ABATED. — MR. FOX'S LIBEL BILL: SOLICITOR-GENERAL'S PART THEREIN.

AN opportunity now afforded itself to Mr. Pitt of testifying the sense he entertained of Mr. Scott's ability and character. Lord Mansfield's resignation, early in June 1788, of the office of Lord Chief Justice of the King's Bench, opened the way to that dignity for Sir Lloyd Kenyon, who was succeeded as Master of the Rolls by the Attorney-General, Mr. Pepper Arden. The Attorney-Generalship devolved to the Solicitor-General, Sir Archibald Macdonald: and the office of Solicitor-General, thus vacant, was conferred upon Mr. Scott, who, on the 27th of June, underwent the ceremony of knighthood. It is said * that he in-

* Morning Chronicle, January 7. 1838.

timated to the King a modest wish of declining this last honour; but that George III. only answered, "Pooh, pooh, nonsense," and gave him the accolade without further parley.*

Sir John Scott to his Brother Henry.

(Not dated; but written June, 1788.)

"Dear Harry,

"I kissed the King's hand yesterday as Solicitor-General. The King, in spite of my teeth, laid his sword upon my shoulder, and bid *Sir John* arise. At this last instance of his royal favour, I have been much disconcerted; but I cannot help myself, so I sing—

'Oho, the delight
To be a gallant knight!'

I was completely taken in, having no idea that the King had any such intention. My wife is persecuted with her new

* NOTE BY THE PRESENT EARL.—During these years, Sir John Scott's elder brother William was also making a distinguished progress in the line he had adopted. He had received in 1773 the appointment of Camden Professor of History in the University of Oxford, where his lectures in that capacity procured him the highest reputation: in this Professorship he was succeeded by Thomas Warton in 1785. Having entered as a student at the Middle Temple, June 24. 1762, he was there called to the Bar on the 11th of February 1780.

Pursuing the study of the civil law, he had been admitted as an Advocate, November 3. 1779, and appointed Advocate-General for the office of Lord High Admiral on the 21st of May 1782. On the 30th of August 1788, he became Judge of the Consistory Court of London; and on September 24. 1788, Vicar-General of the Province of Canterbury.

His patent from King George III., as King's Advocate-General, bears the date of Oct. 28. 1788; but it seems to have met with an accidental delay, for it contains a clause that the salary should begin from September 2. The appointment had been gazetted on September 3. 1788, on which day Sir W. Scott was knighted.

title, and we laugh at her from morning till evening.—Be so good as with my best love to communicate this intelligence to my brother and sisters. Bessy joins in affection to your wife and Mary, and I am,

"Yours faithfully,

"J. SCOTT."

"Henry Scott, Esq.
"Newcastle-on-Tyne."

At this day, when the knighting of the law officers has become matter of course, his coyness about the title may look like affectation; but he was really taken by surprise: for Sir Archibald Macdonald, who had preceded him as Solicitor and was now to become Attorney-General, was not knighted until the same day as himself, being that next preceding the date of the patents which placed them in their new offices.

A new writ for Weobly was issued on the 27th of June, in consequence of his acceptance of office. His patent bears date on the day following: and on the 7th of July he was re-elected for Weobly.

Mr. Surtees, Lady Eldon's brother, relates that "when Mr. Pitt proposed to Pepper Arden the office of Master of the Rolls, Pepper handsomely wished to decline it, saying that he was sure it would be disagreeable to Lord Thurlow. Pitt replied, 'Pepper, you shall be Master of the Rolls; and as to Thurlow, I may just as well quarrel on that as on any other subject with him.' Lord Thurlow, on hearing of the appointment, said that his time would be spent in reversing that fellow's decrees." He broke out in metaphor too. An old book of precedents, which is now in the possession of Mr. Colville of the Registrar's Office, and which belonged, in the latter part of the last century, to Mr. Green, another celebrated Re-

gistrar, has a paper attached to it, containing this passage in print:

"The following description of the duty of a Master of the Rolls is given by a Lord Chancellor not a hundred years ago: 'I look upon my Court and that of the Rolls, to be somewhat like a stage-coach, which, beside the skill of the coachman, requires the assistance of an able postilion, to lead the horses and pick out the best part of the roads. Now if I have got an ignorant, furzebush-headed postilion, he may overset the coach, and tumble us both into the ditch."

It is usual for a barrister, advanced to the rank of a law officer of the Crown, to quit his circuit and confine himself to the business of London, except when taken on special retainer to lead some particular cause at the assizes. Mr. Scott, however, not having received his appointment of Solicitor-General till near the time of the Northern circuit, and being engaged in most of the important causes to be tried upon it, appears to have considered that his duty to the clients who had already retained him would require his attendance notwithstanding his promotion, and, consequently, as his fee-book shows, he went the summer circuit as usual, though for the last time.

It was in the autumn of the year 1788 that King George III. was attacked with a malady, which, about the month of October, assumed the distinct character of mental alienation; and the Houses of Lords and Commons having met on the 20th of November in pursuance of the last prorogation, and adjourned to the 4th of December, found themselves compelled on the latter of those days, in the unavoidable absence

of the regular authority for opening the Session, to enter upon a consideration of the means for supplying the exercise of the regal functions. In the debates on this subject, Mr. Fox and his party, who, possessing the confidence of the Prince of Wales, looked forward to immediate office in the event of His Royal Highness's attainment of the kingly powers, insisted that, during any incapacity of the Sovereign, the Heir-apparent was entitled, constitutionally and of right, to the unlimited prerogatives of the Crown, and that the province of the two Houses of Parliament was only to fix the point of time at which the possession and exercise of this right should begin. Mr. Pitt and his colleagues contended, on the other hand, that the two Houses of Parliament had in themselves the entire authority to select the individual who should exercise the regency, and to assign and limit his powers; admitting, however, as a point of discretion and expediency, that the choice, in the present instance, ought to fall upon the Prince of Wales. The House of Commons appointed a committee to examine precedents. When they had reported, Mr. Pitt moved three resolutions; the first simply affirming that the personal exercise of the royal authority was interrupted by his Majesty's indisposition; the second declaring it to be the right and duty of the Lords and Commons to provide the means for supplying this defect, as the exigency of the case might require; and the third stating it to be necessary that the Lords and Commons should determine on the means, whereby the royal assent might be given to bills respecting the powers to be exercised in the King's name and behalf during his illness.

The first resolution was agreed to. Upon the second and third, a very important series of debates arose: the main subject of contention being, whether it were fitter that commissions should issue, for opening Parliament and for giving the royal assent to a Regency Bill, by the great seal, or that the two Houses should at once address the Heir-apparent to take upon himself the government during the King's indisposition.

Lord North, Mr. Fox, and the other leading opponents of the Ministry, recommended the proceeding by address. They referred, by way of precedent, to the course pursued at the Revolution of 1688, when the Prince of Orange was solicited by address of the two Houses to assume the royal authority; and many arguments were founded upon the superior simplicity and convenience of such a proceeding, which would have the effect of rendering the legislature at once complete, — as compared with the more dilatory process recommended by the Ministry, of first opening Parliament by a commission, next working through both the Houses a bill for the constitution of a regency, and, finally, issuing another commission, to bestow on that bill an unreal assent in the King's name, but without any volition exercised by him.

Mr. Pitt and Sir John Scott, the Solicitor-General, were the principal speakers on the other part. The Solicitor-General's speech, in the committee of the whole House upon the resolutions, was delivered late in the evening, and is very imperfectly recorded. But of his argument upon the report of those resolutions by the committee to the House, 22d December, the account is full and satisfactory:

"He founded his dissent from the recommendations of the Opposition mainly upon this important distinction,—that whereas when the Prince of Orange was solicited to assume the royal powers the throne had become vacant; here, on the contrary, the throne remained 'full of the monarch.' His Majesty's personal capacity was suspended, but his political capacity remained entire. It was on this principle, that during these very debates the King's courts were administering justice. Would any man dare to say that George the Third was king no longer? But if he still continued king, the temporary powers to be exercised by his representative must be conferred by the same constitutional forms, which the King would have employed had he been personally consenting to the delegation: otherwise, instead of recognising the continuance of their sovereign's political capacity, the two Houses of Parliament would be passing by and superseding it. In this view, the substance of the Constitution would be found to depend not a little upon its forms. The argument, 'that 'if the assent of the Crown could by the proposed commission 'be given to a Regency Bill, other bills might be passed in 'the same way,' was not a just one; for the right which necessity creates is limited by the same necessity."*

These arguments of the Solicitor-General appear to have received an extraordinary attention; for almost every speaker of importance on the other side attempted some answer to Sir John Scott, either in the same or in one of the subsequent debates. Indeed it was pretty well understood, that from him was derived the whole of the legal doctrine on which Ministers proceeded in this important matter.

Before the close of the month, these three resolutions had been agreed to by both Houses; and Mr. Pitt then submitted, in five other resolutions, the outline of the restrictions by which he proposed to limit the powers of the Regency. The first resolution of these

* Parl. Hist. vol. xxvii, p. 825.

five declared it expedient to invest the Prince of Wales with the Regency; the second, third, and fourth imposed limitations upon the Regent's powers of creating peers, of granting offices, salaries, and pensions, and of dealing with the real or personal estate of the Crown; and the fifth committed to the Queen the care of the King's person, and the control of his household, with the advice and assistance of a council. The first four propositions, after a warm debate, were voted on the 16th of January, 1789. The fifth was deferred to the 19th, when the principal speakers in its favour were Mr. Pitt, Mr. Dundas, and Sir John Scott, and against it, Mr. Grey, Lord North, and Mr. Fox. A great part of Mr. Fox's speech was in answer to that of Sir John Scott. The fifth resolution, having been carried by a large majority in the House of Commons, was, with the other four, agreed to by the House of Lords; and the Prince, though not without some intimation of displeasure at the restrictions, consented to undertake the duties of the Regency.

In the debate of the 16th, Lord Belgrave, now Marquis of Westminster, had introduced into his speech a quotation from Demosthenes, which brought upon him a good deal of banter, first from Mr. Sheridan, who immediately followed him, and afterwards from other witty Whigs, whose politics the noble Lord was then opposing. Some waggeries were published on the occasion, in which it was pretended that his quotation had been

Τὸν δ' ἀπαμειβόμενος προσέφη πόδας ὠκὺς Ἀχιλλεύς·

and that various members had furnished translations of it. This squib obtained great popularity. The

translation ascribed to Sir John Scott was this couplet: —

> "With metaphysic art his speech he plann'd,
> And said — what nobody could understand."

As there had been no opening of the session by the royal person or authority, and as, consequently, there was no Parliament constitutionally met, it now became necessary that some means should be provided for giving validity to the proceedings of the two Houses. This the ministers proposed to do, by opening Parliament under a Royal Commission, the course usually taken when the King does not perform that ceremony in person. At the outset of the debate on this subject, in the House of Commons, Mr. Pitt explained that a second commission was intended to follow, for giving the royal assent to the proposed Regency Bill. Lord North, Mr. Burke, and Mr. Sheridan protested against this mode of signifying the royal assent; while the constitutional fitness of such a course was maintained by the Master of the Rolls and the Attorney and Solicitor General. The Solicitor General's speech was clear and precise, both upon principle and upon precedent.

"His opponents," he said, "had ridiculed the fiction of treating the annexation of the great seal to a parchment as a constitutional signification of the royal assent. But the royal assent would not be better realised by the measure suggested on the other side, of addressing the Prince to assume the regency. What ministers proposed was indeed a fiction of law, but a wholesome fiction, because consistent with the substance, as well as with the forms, of the constitution. No

* "Asylum for Fugitive Pieces," vol. iii. p. 87., in the King's Library, British Museum: — title, "Poetæ Anglici."

doubt, the King's personal warrant ought properly to precede the annexation of the great seal to any commission: but any commission, to which the great seal had once been annexed, was thereby rendered absolutely unquestionable, although the warrant, or any other of the proper preliminaries, might have been wanting. The commissions issued under the great seal in the early part of the reign of Henry VI., while that king was an infant, must have been without the sign manual: yet some of the most salutary of our statutes had passed during that period, and their validity had never been disputed. The great seal, therefore, made the assent of the Crown complete in law. Not so the mere agreement of the Prince to accept the Regency; which agreement could carry no assent of the Crown, either by the letter or by the spirit of the constitution."

These reasonings were satisfactory to a majority of the House; and, the Lords having come to a similar decision, the Parliament was opened, on the 3d of February, by a commission under the great seal.

The fiction of law, upon which the two Houses thus proceeded, was designated by the Opposition as the substitution of a phantom for the Sovereign. This word "phantom," which survived, and "coldly furnished forth" the declamations of the Whigs on the Regency Bill of 1810, was a favourite metaphor of Mr. Burke and of many minor partisans; and the idea conveyed by it was amplified in a *jeu d'esprit*, of which the following is an extract: —

"INCANTATION FOR RAISING A PHANTOM, IMITATED FROM MACBETH, AND LATELY PERFORMED BY HIS MAJESTY'S SERVANTS IN WESTMINSTER.

Thunder: a Caldron burning. Enter three Witches.

1*st Witch.* Thrice the Doctors have been heard:
2*d Witch.* Thrice the Houses have conferr'd:

3d Witch. Thrice hath Sydney* cock'd his chin:
Jenky† cries,—"Begin, begin."
1st Witch. Round about the caldron go;
In the fell ingredients throw:
Still-born fœtus, born and bred
In a lawyer's puzzled head,
Hatch'd by metaphysic Scott,
Boil thou in th' enchanted pot."‡

On the 4th of February 1789, the Regency Bill was read a first time in the House of Commons, where, on the 12th, it was passed. It was carried on the same day to the House of Lords, and was still in committee there, when, on the 19th, the Lord Chancellor, as soon as prayers were over, informed the House that for the last few days, and especially on that morning, the reports of his Majesty's health had become decidedly favourable. The further consideration of the bill on that afternoon was therefore postponed; and the recovery of the King now proceeded so rapidly that he was enabled to attend to public business before the 16th of March, on which day the Parliament, the opening whereof had before been of necessity imperfect, was opened by a commission issued with all the due solemnities.

"Lady Eldon told me," says her brother, Mr. John Surtees, "that George III., after his first malady, sent a message to Lord Eldon, then Solicitor-General, to call upon him, I believe, at Windsor. The call was of course obeyed. The King told him that he had no other business with him than to thank him for the affectionate fidelity with which he adhered to him when so many had deserted him in his malady."

* Lord Sydney, Secretary for the Home Department.
† Lord Hawkesbury, first Earl of Liverpool.
‡ "Asylum for Fugitive Pieces," vol. iii. p. 69. ubi suprà.

No piece of political gossip has had greater circulation than the scandal that, during the progress of the Regency Bill, the Lord Chancellor Thurlow, secretly from the rest of the King's friends, was carrying on a negotiation with the Prince's party for the purpose of continuing himself in office under their expected ministry. Mr. Farrer having happened, in a conversation with Lord Eldon, to express some curiosity about a story so startling in itself, and yet so generally current, Lord Eldon's answer was, "I do not believe there was a word of truth in that report." He has intimated the same disbelief in his Anecdote Book, where he says, "I was, at the time of the Regency, honoured with Lord Thurlow's intimacy. Scarcely a day passed in which there was not much interesting conversation upon that subject between Lord Thurlow and the King's friends, with which I was acquainted. — I have no doubt that it was the opinion of many of the King's friends that it was very desirable, for the King's sake, that Lord Thurlow should continue Chancellor, however the Regency administration might be composed, if that could be so arranged. Considering the extreme heat and bitterness of parties in Parliament, after the King was recovered, it seems very extraordinary that, if Lord Thurlow's conduct had, during the debates about the Regency, been dishonourable, with respect to any object he had in view if the Regency took place, no allusion should be made to it in debates, when he might have had an opportunity of explaining his views if his conduct required explanation."*

* There seems reason to believe that Lord Eldon took too favourable a view of his friend's conduct. Mr. Pitt, Lord Camden, and others who knew the circumstances, had a strong opinion that Lord Thurlow was playing a double game. For the grounds of that opinion, see Tomline's Life of Pitt, vol. iii. ch. 14., and the private memorandum in the Appendix to the first volume of the Memoirs of Mr. Wilberforce. — *Note to second edition.*

During the whole period of Sir John Scott's service as Solicitor-General, he continued his habits of personal intimacy with Lord Thurlow, whose familiar manner the Anecdote Book thus exemplifies:—

"After dinner, one day when nobody was present but Lord Kenyon and myself, Lord Thurlow said, 'Kenyon, I decided a cause this morning, and I thought from the countenance of Scott, who was not counsel in it, that he doubted whether I was right.' Thurlow then stated what he represented as forming the circumstances of the case: Kenyon instantly said, 'Your decision was quite right.' — 'What say you to that, Scott?' said Thurlow. I said, I did not presume to form a judgment upon a case upon which they were agreed. But I added that I thought Lord Thurlow had not mentioned to Kenyon a fact which might perhaps appear materially to affect the decision, — and I was about to state the fact, and my reasons for what I had said. Kenyon, however, broke in upon me, and with some warmth stated that I was always so obstinate that there was no dealing with me. 'Nay, nay, Taffy,' said Thurlow, 'that's not quite fair — surely nobody is more obstinate than *you* are. But there is a difference between you. You are very obstinate, but you never give any reasons for your obstinacy. He is very obstinate, but always gives his reasons; and, to say the truth, they are generally very bad ones.'"

The next two stories were told by Lord Eldon to Miss Forster:—

"Lord Thurlow built a house in the neighbourhood of London.* Now he was first cheated by his architect, and then he cheated himself; for the house cost

* At Knight's Hill, Norwood, Surrey.

more than he expected, so he never would go into it. Very foolish, but so it was. As he was coming out of the Queen's Drawing-room, a lady whom I knew very well, stopped him, and asked when he was going into his new house. 'Madam,' said he, 'the 'Queen has just asked that impudent question: and 'as I would not tell her, I will not tell you.'"

"I remember, as I was coming away from that very Drawing-room, in my full dress as King's Counsel*, (Lord Clarendon, then Mr. Villiers, was with me,) we came to the room where the milliners were collected to see the fashions. Said I, 'Why, Villiers, I think all the prettiest women are here.' One of the girls, and a most amazingly beautiful creature she was, stood up, and said to another, 'I am sure that gentleman is a *judge*.'"

In those days, the lawyers despatched dinner in time to begin their evening labour in chambers between six and seven. "Dinner hours," says Lord Eldon, in the Anecdote Book, "are much altered within a few years. I remember the Duchess of Gordon asking Mr. Pitt to dine with her at eight o'clock. He excused himself by saying, that at that hour he was to *sup* with Dr. Prettyman." Of late years there has been a general tendency towards the Duchess's distribution of the evening, and the lawyers, of course, have conformed to the customs of their clients. Some leading barristers, especially those practising in courts of equity, have desisted, in ordinary, from chamber attendance at night, employing themselves upon their papers at home, secure

* The full-bottomed wig which the King's Counsel wear is the same with that worn by the Judges.

from interruption ; and a great proportion of the consultations, formerly held from six to ten, are now taken from three to five in the afternoon, or in the morning before the sitting of the courts. The courts themselves meet later in the forenoon ; and the evening sittings at the Rolls are now entirely discontinued.

On the 2d of January, 1789, the Chair of the House of Commons had become vacant by the death of Mr. Speaker Cornwall ; who was succeeded on the 5th by the Right Honourable William Wyndham Grenville. Mr. Grenville's acceptance of the office of Secretary of State in the following June occasioned a necessity for another election of Speaker ; and on the 8th of that month, Mr. Addington, the late Viscount Sidmouth, was chosen in his stead.

A work which was published in 1790, bearing the title of " Strictures on Eminent Lawyers," professes to describe the forensic speaking of Sir John Scott, in those days ; and the description may be deemed a just one, provided that the word " correct," as it occurs in the first sentence, be referred to the style of his argument, and not of his diction.

" His speaking is of that subtle, correct, and deliberate " kind, that has more the appearance of written, than of oral, " eloquence. He branches forth his arguments into different " heads and divisions, and pursues the respective parts through " all their various ramifications with such methodical ac- " curacy, that argument seems to rise out of argument, and " conclusion from conclusion, in the most regular and natural " progression, so that those who are not acquainted with his " practice would suspect that he had studied and prepared " his speeches with the most diligent attention ; while others, " who are better acquainted with the business of the courts, " feel their admiration and surprise increased, from the

" knowledge that a man of his extensive business, so far from " studying what he shall say, can scarcely find time to glance " his eye over the numerous papers that come before him. " He is also particularly distinguished for his aptitude and " ingenuity of reply. His systematic mind seems to me- " thodise, with inconceivable rapidity, the arguments of his " opponents. In the short space of time between the plead- " ings of his adversary and his reply, every thing seems di- " gested and disposed, and his mode of replication seems " planned in the nicest order. He will frequently take " up the concluding argument of his opponent, or at " other times seize upon some observation which has fallen " in the middle of the adverse speech. Here he will begin " his attack, and proceed by his usual clear and deliberate " method, pursuing one regular chain of reasoning, till he has " confuted, or at least replied to, every proposition against " him."

" Soon after I became Solicitor-General," says Lord Eldon in the Anecdote Book, " his Majesty, George III., at Weymouth, with the kindness which he uniformly manifested to me, said, ' Well, I hope your promotion has been beneficial to you ? ' I asked his Majesty, if he meant in professional income ? He said, ' Yes, in that and in other respects.' I told him what was strictly true, that in annual receipt I thought I must lose about two thousand pounds a year. He seemed surprised, and asked how that could be accounted for ? I stated to him that the attention of his law officers was called to matters of international law, public law, and the laws of revenue, and other matters, with which not having been previously familiar, they were obliged to devote to them a vast deal of time, and to withdraw it from those other common matters of business, which were very profitable ; and I concluded by stating, what was then the

habit of the solicitors of the public offices, to give the Solicitor-General only three guineas with his Majesty's (the Government's) cases, which required more time and attention fully to consider, and satisfactorily to answer, than the cases of private individuals, with which their attornies frequently left fees of ten, fifteen, twenty, or twenty-five guineas. 'Oh!' said the King, 'then for the first time I comprehend what I never could before understand, why it has been always so difficult to get any opinions from my law officers!'"

A pleasantry of the Solicitor-General himself, arising out of one of the government cases, is thus related in his Anecdote Book:—

"Attending a cause in the Court of Exchequer, a part of the ceiling fell down, and alarmed the judges, counsel, &c. Mr. Gryffid Price, an honest and excellent but warm Welshman, turned to me, and said in his familiar way, 'My dear Jack, what an escape! Who could have expected that we should all have been delivered?' He hated a pun, and particularly a bad one; and I thought nothing could have restrained my Welsh friend's wrath when I said, 'My dear Price, you make more than enough of this. Ought not you, as an experienced lawyer, to have been aware that sealing (ceiling) and delivery always go together?'"

There was a dialogue which he used to relate as having taken place about the same time, and which bears oddly upon his family name. A party in some cause had occasion to give in evidence an instrument, to which the subscribing witness was one John Scott. Application was made to the Solicitor-General, in the

hope that he might turn out to be the witness; but he answered that the signature was not his. Sometime afterwards he found himself seated at dinner near a gentleman who claimed to be his namesake, though he spelt his surname with but a single *t*. In the course of conversation the Solicitor-General mentioned the attested instrument and the ineffectual search which had been made for the subscribing witness. "Oh," said the gentleman, "I was that witness." —"Well, but," said the Solicitor-General, "that "witness's name was spelt with two *t*'s — Scott, "whereas yours, you have been saying, is spelt with "only one *t*—Scot." —"Very true," said the other, "but it is since I witnessed that paper that I have "changed the spelling of my name by dropping one of "the *t*'s. I allow you," added he, in a strong northern accent, "that Scott with two *t*'s may sound "rounder in the mouth; but Scott with one *t* has more "of quality in it!"

The occasions on which the Solicitor-General took part in the debates of the House of Commons were chiefly where some legal or constitutional principle was in question. He was ever opposed to the exercise of parliamentary privileges or powers, for the oppression of individuals. Upon this ground, among others, he resisted, on the evenings of the 15th and 29th of March, 1790, the proposal of Mr. Francis for a committee to enquire into the circumstances attending the execution of the Rajah Mustapha Cawn, beheaded by order of Captain Williams in consequence of directions from his commanding officer Colonel Hannay, at whose conduct, in this and other cases of alleged criminality, Mr. Hastings

was accused of having connived. The real aim of the motion seemed to be to assail Mr. Hastings, through the sides of Captain Williams, who had acted but ministerially.

"The Solicitor-General represented, that to appoint a committee for the purpose of getting up a case, and then perhaps to institute a proceeding against Captain Williams for murder, with all the weight and authority of the House of Commons in support of the prosecution, was a course subjecting the subordinate officer to disadvantages, against which it was almost impossible for a private person to bear up. In cases of treason, and in cases of misdemeanor, necessity had founded precedents for the institution of proceedings by the House; but upon felonies, the intermediate class of offences, there was seldom any urgency of state that could require the interposition of Parliament to set the courts of law in motion; and upon cases of felony, therefore, it was best, unless where some very extraordinary case should present itself, to abstain from interference with the regular tribunals. Where a private person prosecutes, the defendant, on his acquittal, may recover damages against his prosecutor, if it be practicable to show malice and want of probable cause in the prosecution; but a defendant prosecuted by the House has no such remedy against his pursuer. In all this, the Solicitor-General desired to be understood as the advocate, not of Captain Williams, but of the constitutional security of the subject; a consideration infinitely more important than any thing personal to any single individual."

Mr. Francis's motion was negatived.

The prorogation of Parliament, which took place on the 10th of June 1790, was followed by a dissolution; and Sir John Scott was again returned for Weobly. His brother, Sir William Scott, entered Parliament at the same general election, as member for the borough of Downton; for which, in 1784, he had been unseated on a scrutiny.

Parliament re-assembled on the 20th of November: and on the 17th of the following month, a question having arisen whether the impeachment of Mr. Hastings had abated by the dissolution, Mr. Burke moved a resolution that it was still depending. Sir John Scott, with the Attorney-General, the Master of the Rolls, and Mr. Erskine, contended that by the dissolution the impeachment had abated: Mr. Pitt, Mr. Fox, and Mr. Burke, were of a contrary opinion. After three nights of discussion, Mr. Burke's motion was carried by a large majority: and it is now the established law of Parliament, that an impeachment does not abate by a dissolution.

Sir John Scott to his Brother Henry.

Not dated; but written in Dec. 1790.

"Oh! the dignity of the cloth shoe! How hard it is upon me that I, the youngest, and most temperate and abstemious of the three, should, the first of all the brothers, arrive to this dignity! I hope most heartily you may escape; because, between the pain felt and the pain of being laughed at, the complaint is quite intolerable. Into the bargain I lost half my long vacation, and I found myself, before I came out of town, quite knocked up with the fatigue of the term and of the attendance in Parliament, for which I was ill-prepared by my sufferings. I stole out of London, therefore, to see whether I could get about again by retirement, by air, and exercise; and I think myself essentially better.

"You would see by the papers how unmercifully we poor lawyers have been treated in the House of Commons.—But the black squadron, as we are called, are an obstinate little handful, and in the long run, in a right cause, we shall at least fall gloriously. As to newspaper slander, all which to my knowledge is paid for, I hold that cheap—and in spite of it, I shall have, at our next meeting, another tumble

down with Charles Fox and William Pitt, who for once at least agree in a business in which they are both wrong."*

Until the year 1791, the deliberation of a jury on a prosecution for libel was confined to the two enquiries, — whether the defendant had published the matter complained of, — and whether that matter bore the sense imputed: — the third, and generally principal question, whether the matter complained of were or were not a libel, having been repeatedly held by the King's Bench (though not without a good deal of controversy) to be a pure point of law determinable only by the Court itself. In May 1791, Mr. Fox introduced a declaratory bill, affirming the right of the jury to find a general verdict on the whole matter in issue, including the question of "libel, or not." Although nothing more was meant by this bill than to place the trial of libel on the same ground with the trial of every other offence prosecuted before a jury, upon which it is not only the right but the duty of the judge to give his *direction*, yet, as the enactment was originally worded, persons unacquainted with law might perhaps have imagined that the legislature had intended the question of "libel or not" to be transferred to the jury *exclusively* of the judge. To prevent such misapprehension, the Solicitor-General, in the committee on the bill, proposed that the preamble should be modified; but, after a little conversation with Mr. Fox, who objected to the introduction of the amending words into the preamble, it was agreed that they should be inserted in

* This refers to the question respecting the abatement of the impeachment.

the enacting part of the bill by way of proviso, which was accordingly done. Lord Thurlow and other law-lords in the Upper House postponed the measure till the following year, when the legislature passed the act of the 32d of Geo. 3. c. 60., entitled "An Act to "remove doubts respecting the functions of juries in "cases of libel:" its 2d section being the useful proviso of Sir John Scott, expressed in the following words: —

"Provided always, that on every such trial, the court or judge, before whom such information or indictment shall be tried, shall, according to their or his discretion, give their or his opinion and directions to the jury on the matter in issue between the King and the defendant or defendants, in like manner as in other criminal cases."

CHAPTER X.

1791—1793.

INCREASE OF SIR JOHN SCOTT'S BUSINESS AND FAMILY. — CORRESPONDENCE OF SIR JOHN AND LADY SCOTT, AND OF SIR WILLIAM SCOTT, WITH THEIR BROTHER HENRY AND HIS WIFE. — ANECDOTES OF LORD THURLOW'S REMOVAL FROM OFFICE, AND OF HIS RIVALRY WITH LORD LOUGHBOROUGH. — SIR JOHN SCOTT'S PURCHASE OF THE ELDON ESTATE. — MR. BURKE'S DAGGER. — CHALLENGE TO SIR JOHN SCOTT.

THE increased practice of the Solicitor-General having made it necessary that he should enlarge his establishment for business, he took, in the summer of 1791, a set of chambers at No. 11. Serle's Court, commonly called The New Square, Lincoln's Inn, under a lease to him, dated the 1st of September in that year.

It has already been observed, that nearly ten years intervened between the birth of John, who was the first issue of his marriage, and the birth of Elizabeth, who was the second. After the latter event, nearly eight years more elapsed before the arrival of the third child, Edward William (who took the former of those names from his godfather, Lord Chancellor Thurlow). This child died under the age of seven months, and was succeeded by three others, all born in less than seven years after him.

The following letter, from Sir John Scott to his brother Henry, was written in preparation for Lady Scott's then approaching confinement: —

"Dear Harry, 28th June, 1791.

"I received your affectionate letter, and my wife received her sister's equally affectionate letters, some days ago. I confess to you I have been in some degree of unhappiness upon the subject of them. On one hand I feel very painfully the idea of giving what it is utterly impossible not to be perfectly convinced is, in a great and really serious degree, trouble so substantial to you and my sister, as the accepting the benefit of your affection must occasion: on the other, though my wife had fought off the idea of dissatisfaction in having strange doctors and nurses with much fortitude till very lately, (so much that I had not listened to a similar invitation which her brother Surtees had been kind enough to send her,) as her indisposition approaches her mind gives way, and an uneasiness grows upon her, which, as the preservation of her is of the last importance to me, gives me an alarm and a misery which reconciles me to the idea of once more receiving, from you and my sister, a favour in your care of her, which I do assure you I have been most sincerely reluctant to accept, upon principles which must insure to you my gratitude, if it is accepted, in any way in which I can express it. With unceasing and with extreme reluctance, and I hope with gratitude proportionable to both, after thinking some days very anxiously upon hardly any thing else, I have determined to avail myself of your goodness.

"The season for her indisposition will be about the middle of August, and my medical advice is that she should leave this place in about ten days, and be about six or seven upon her journey. If, therefore, you hear nothing to the contrary, you and my sister will be good enough to expect her. Bessy will come with her."

Sir John Scott to Mrs. Henry Scott.

"Dear Sister, London, 4th October, 1791.

"I persuade myself you will do me the justice to believe that I should have been happier than I am, if one cause or other had not prevented me so long from thanking you for

all your goodness to me and mine whilst I was with you, and since I have left you. If I do not say much more upon the subject of that goodness, it is because I know that the disposition, which is inclined to do others so much service, will not be unwilling to believe that those who receive it will gratefully think of it and remember it. I do not know how I should have supported myself from the Wednesday to the Saturday morning, when I could first hear from you, if I had been deprived of the comfort of recollecting that my poor invalid was sure of the tenderest and most anxious care. I observe the trouble you must have had, in several instances of kind attention, which your letters, for which I most sincerely thank you, in describing Lady S.'s situation from time to time, necessarily introduce to my knowledge. I sincerely hope that your own health will not suffer in consequence of your care of another person's."

* * * * * *

Sir John Scott to his brother Henry.

"7th October, 1791.

* * * * * *

"We have no news except what you will see in the papers. Lord Cornwallis, as you would see when you were picking your bone, talks of difficulties; but I rather suspect *that* is to make the victory he suspects himself to be pretty sure of, more illustrious."

From Lady Scott, afterwards Lady Eldon, to Mrs. Henry Scott.

No date; probably written in October or November, 1791.

* * * * * *

"I must say I have one of the best husbands in the world, for I have received four-and-twenty letters since I left Newcastle; every stage I come to, I am presented with two, three, or four. In one I received yesterday, he says that whatever business come in the way that may, 'a hint from you, that you wish me to come to you, will bring me immediately.'

My dear girl joins me in love to my dear sister, brother, and dear Mary.

"I remain, your very affectionate sister,

"ELIZ. SCOTT."

Sir John Scott to his Brother Henry.

"London, 22d Dec. 1791.

* * * * * *

"I am very sorry for your family affliction which you mention.* God knows, Harry, the tenure by which we hold life is very uncertain, and the importance which the well-being of those we love is of, to our own well-being, and our well-being is to them, is then deeply felt, when we are about to lose one another. But we can do no more than to discharge the duty of taking all the care of them and of ourselves, as far as health is concerned, which morality and religion require we should take of them and of ourselves, and the event must be submitted to the providence of HIM who knows best what is expedient for us.

* * * * * *

"At this season let me add my most fervent wishes for the health of you all. We are all crazy constitutions, but I am persuaded that, if we take but moderate care of our health, we may live many happy years together. That you and they may enjoy many, is the sincere wish of

"Yours, most affectionately,

"J. SCOTT."

Sir William Scott to Mr. Henry Scott.

"Dear Brother, London, 20th April, 1792.

"I just write this note to acquaint you with the unexpected death of my brother's infant boy, which happened in a convulsive fit, at four o'clock this morning: the inoculation had been favourable enough in its symptoms before, and there was all the reason in the world to expect that he would have gone well through.

* The death of Mrs. Wilson, sister of Mrs. Henry Scott.

"You will easily conceive the agonies of grief that the poor mother is in. What makes it more calamitous is, that my brother dares not go near the house, on account of his own apprehensions of the small-pox. The office of supporting her of course devolves upon my wife and myself, and we shall not be inattentive to it.

"I shall write soon upon business. I am with love, &c. &c.

"Yours affectionately,

"W. SCOTT."

The session of 1792, during which the Solicitor General had taken little part in any debate, was closed by a prorogation on the 15th of June: and on the same day, his old ally, Lord Thurlow, gave up the Great Seal, which was transferred to Lord Loughborough. "What it was," said Lord Eldon in after-life, to Mr. Farrer, "that occasioned the rupture between Lord Thurlow and his colleagues, I cannot tell you: I never could find out." The public, during the session of 1792, had witnessed, and with no small surprise, the vehement invectives poured forth by Lord Thurlow in the House of Peers, upon two of Mr. Pitt's measures, the Sinking Fund Bill, and the New Forest Bill: and these attacks may have been the proximate cause of the Chancellor's removal; but the motive which provoked them has never become matter of history.

"I called upon Sir John Scott," says his brother-in-law, Mr. John Surtees, "a few days after Lord Thurlow had ceased to be Chancellor, when Sir John Scott gave me the following narrative. He, at that time Solicitor General, had received a message from Mr. Pitt, to beg that he would call upon him. He called accordingly. Mr. Pitt said, 'Sir John Scott, I have

'a circumstance to mention to you, which, on account 'of your personal and political connection with Lord 'Thurlow, I wish that you should *first* hear from 'myself. Lord Thurlow and I have quarrelled; and 'I have signified to him His Majesty's commands that 'he should resign the Great Seal.' Sir John Scott replied, that he was not at all surprised at the event which had taken place; that he had long looked forward to the probability of such an event with great pain; and he then added, 'My resolution is 'formed. I owe too great obligations to Lord Thurlow 'to reconcile it to myself to act in political hostility 'to him, and I have too long and too conscientiously 'acted in political connection with you, to join any 'party against you. Nothing is left for me but to 'resign my office as Solicitor General, and to make 'my bow to the House of Commons.' Mr. Pitt reasoned with him, and implored him not to persist in that resolution, in vain; but at length prevailed upon him to consult Lord Thurlow, before he proceeded any farther. Lord Thurlow, after Sir John Scott had stated what had passed between Mr. Pitt and him, said, 'Scott, if there be any thing which 'could make me regret what has taken place (and I 'I do not repent it), it would be that you should do so 'foolish a thing.' Lord Thurlow continued, 'I did 'not think that the King would have parted with me 'so easily. As to that other man, he has done to me 'just what I should have done to him, if I could.' His Lordship added, 'It is very possible that Mr. Pitt, 'from party and political motives, *at this moment* may 'overlook your pretensions; but sooner or later you '*must* hold the Great Seal. I know no man but

'yourself qualified for its duties.' Lord Thurlow reasoned and prevailed, and Sir John Scott fortunately continued to hold his official situation, and to act with his wonted cordiality with Mr. Pitt."

In this change of office, the bitterest circumstance to Lord Thurlow probably was, that Lord Loughborough became his successor. For Lord Thurlow most cordially hated his rival, holding him cheap as a lawyer, yet fearing him as a ready and popular opponent in debate. Lord Eldon used to relate, that on one occasion, when Lord Loughborough was speaking, with considerable effect, about a matter on which Lord Thurlow had a strongly adverse opinion, but which he had not studied in sufficient detail to be prepared for refuting his ingenious opponent, Lord Thurlow, as he sat on the woolsack, was heard to mutter, "If I was not as lazy as a toad at the bottom "of a well, I could kick that fellow Loughborough "heels over head any day in the week!"

In the Anecdote Book, Lord Eldon says, "George the Fourth told me, as another instance of his (Thurlow's) contempt of Loughborough as a lawyer, that Thurlow told him, when Prince, that the fellow had the gift of the gab in a marvellous degree, but that he was no lawyer, and added, 'In the House of 'Lords I get Kenyon, or somebody, to start some 'law doctrine, in such a manner that the fellow must 'get up to answer it, and then I leave the woolsack, 'and give him such a thump in his bread-basket, that 'he cannot recover himself.'"

But another of Lord Eldon's anecdotes of the rivalry between those two great law-lords, turns the laugh very fairly against the scorner: —

"Lord Thurlow, who had a thorough contempt of Lord Loughborough as a lawyer, shortly after the latter had become Chancellor, in conversation said to me, 'What do you think that fellow has been doing? 'he has been making one of the *lads* — one of the 'King's sons — a peer of Ireland under *his* Great Seal, 'not under the *Irish* Great Seal. Did you ever hear 'of such a thing as that?' I answered, 'Yes, I cer- 'tainly have. I have known instances of it.' 'Have 'you?' he said: 'What instances?' I answered, 'Lord Thurlow did the same as to some of the older '*lads* of the family, when *he* was Chancellor.' 'What 'do you mean? Did I? It can't be so!' The fact, however, *was* so; and it will be found that some of the *ancient* Irish peerages were granted under the English Great Seal."

The succeeding passage is also from the Anecdote Book: —

"After Lord Thurlow was removed from his office of Lord Chancellor, during which he enjoyed so much of the confidence of King George the Third, the Prince of Wales seems to have cultivated his friendship as much as possible, and upon all occasions requested his advice, though not often acting according to it. Upon Macmahon's waiting upon him (from the Prince) upon some occasion, to request his advice upon some matter that was thought important, Thurlow said, 'Tell the Prince I am 'always ready to offer his Royal Highness the best 'advice I am able to give him — and that I observe 'that his Royal Highness is always ready to ask it; 'but that it may be as well to know, before I

'give it, whether there is any body that means to 'follow it.'"

"Southward of Howledge," says Hutchinson in his History of the County Palatine of Durham, "lies "the village of Eldon, on a lofty situation. This is "one of the places given to the church of Durham "by Canute on his pilgrimage to the shrine of St. "Cuthbert." It was in later time, according to Hutchinson, a part of the possessions of the Nevilles. Sir John Scott now became the purchaser of this estate, from which he afterwards took the title of his barony and of his earldom. The conveyance to him is dated the 28th of July, 1792. The property conveyed was the manor of Eldon, and upwards of 1300 acres of land arable, meadow, and pasture, in the parish of St. Andrew Auckland, in the Darlington Ward of the County Palatine of Durham. The purchase-money was 22,000*l.*: and the vendor, Frances Gordon, was the widow of John Gordon, son and representative of William Viscount Kenmure and Lord Lochinvar, who was beheaded on Tower Hill in February 1716. The information which follows is from the present Earl of Eldon: —

"Sir John Scott was an improving landlord, and, for several years from the time of the purchase, expended the whole rents of Eldon on the estate, whereby its value was eventually much increased. That part of the country, which originally presented a barren and bleak appearance, is now greatly beautified by his judicious plantations. When asked by me what had induced him to select this property for an investment, Lord Eldon answered, that 'he

'thought, as he did not require a residence, and had 'therefore no object in the selection of any particular 'locality with *that* view, he might as well let the 'chancellorship of Durham throw its weight into the 'scale,' — which decided him to make the purchase of Eldon, situated in the southern part of that county." *

The progress of the French Revolution had detached from the party of Mr. Fox a considerable number of eminent men. Among the seceders was Mr. Burke, whose celebrated exhibition of a dagger in the House of Commons is mentioned in the following letter: —

Sir John Scott to his Brother Henry.

"London, 11th January, 1793.

"I think the constitution of old England has a chance to weather the storm somewhat longer than was probable last October. But vigilance must not be relaxed; for there is great industry still exerting, at least in this seat of sin, to do and to create mischief. You would hear of the dagger which Burke exhibited in the House of Commons. I have got the pattern specimen of that order, which I shall keep as a great curiosity. †

* NOTE BY THE PRESENT EARL. — It appears, from an inspection of the title-deeds relating to the manor and lands of Eldon, that on the 3d of May, 1745, Lord Chancellor Hardwicke (who having held the Great Seal for twenty years, was the next longest lay holder of it to Lord Chancellor Eldon) purchased a portion of the Eldon property. It consisted of a fee-farm rent of 42*l.* 15*s.* 9½*d.*, and was conveyed from the Hardwicke family to Lord Chancellor Eldon.

† NOTE BY THE PRESENT EARL. — In Prior's "Life of Burke" (1824. p. 416.) it is related, that in the debate of the 28th of December, 1792, "on the second reading of the Alien Bill," "Mr. Burke, in mentioning that an order for making 3000 daggers had arrived some time before at Birmingham, a few of which had been actually delivered, drew one from under his coat, and threw it indignantly on the floor." But Prior says nothing respecting the

"You may perhaps have seen by the papers, that I have been tempted to the use of the pistol lately, by a worthy person who has found out, in the year 1792, that I abused him in a speech in 1786, and which he never complained of before, though he heard me make it, and I have been his counsel in all his causes ever since. The truth is, three courts thought his conduct so bad, that they made him pay a young man, of whom they declared he had taken undue advantage, about 17,000*l.* and all costs, and the fellow is fool enough to suppose he can retrieve his character by insulting me. I have acted at the written request of about a dozen very honourable people, in all I have done, and all I have

manner in which the dagger came into Burke's hands. On Lord Chancellor Eldon's death I found with his papers the dagger which, from conversations with him in the latter years of his life, I had understood to be the one thrown down by Burke in the House of Commons.

Being however informed by the Archbishop of Canterbury that he had seen, in the possession of the late Sir James Bland Burgess, a similar dagger considered to be the identical one used by Burke, I made further inquiries of his son, Sir Charles Montolieu Lamb, on the subject of my doubts, which were confirmed on reference to the letter in the text.

At the period of this speech of Burke Sir James Bland Burgess (then Mr. Burgess) was member for Helston, and Under-Secretary of State for the Foreign Department; and I am indebted to Sir Charles Lamb's kindness for the following account of the circumstances respecting the dagger, which he has, and which clearly is the identical one used by Burke, and which, like the one formerly in Lord Chancellor Eldon's possession and now in mine, is a foot long in the blade, and about five inches in the handle, of coarse workmanship, and might serve either for a dagger or a pikehead.

"The history of it," says Sir Charles, "is, that it was sent to a manufacturer at Birmingham, as a pattern, with an order to make a large quantity like it. At that time the order seemed so suspicious, that instead of executing it, he came to London and called on my father at the Secretary of State's Office, to inform him of it and ask his advice: and he left the pattern with him. Just after, Mr. Burke called, on his way to the House of Commons, and upon my father mentioning the thing to him, borrowed the dagger to show in the House. They walked down to the House together, and when Mr. Burke had made his speech, my father took the dagger again, and kept it as a curiosity."

declined to do. The thing has given me a deal of plague, but I hope it will be over soon."

The troublesome person, mentioned in this letter, was a member of Parliament, named Mackreth. Sir John Scott, by the advice of his friends at the Bar, declined to meet such an antagonist in the way proposed, and put a stop to the annoyance by an appeal to the law. The challenger was convicted of a breach of the peace, and sentenced by the Court of King's Bench in the following May, to six weeks' imprisonment, and a fine of 100*l*.

CHAPTER XI.

1793, 1794.

SIR JOHN SCOTT APPOINTED ATTORNEY GENERAL. — STATE OF THE COUNTRY. — TRAITOROUS CORRESPONDENCE BILL. — PROSECUTION OF FROST: PRINCIPLE FOR THE DISCRETION OF A LAW OFFICER. — STOCKBRIDGE DISFRANCHISEMENT BILL. — CONVICTION OF MESSRS. MUIR AND PALMER FOR SEDITION IN SCOTLAND. — MR. SHERIDAN'S MOTION AGAINST THE SOLICITATION OF VOLUNTARY SUPPLIES: "PREVIOUS QUESTION:" ITS MEANING AND USE: ANSWER OF THE ATTORNEY GENERAL: STORY TOLD BY MR. FOX. — LORD THURLOW'S SARCASM ON THE ATTORNEY GENERAL. — DUKE OF SUSSEX'S FIRST MARRIAGE. — THE ATTORNEY GENERAL'S PLEASANTRY UPON LORD THURLOW.

EARLY in 1793, the promotion of the Attorney General, Sir Archibald Macdonald, to the office of Lord Chief Baron of the Exchequer, made room for the Solicitor General, who, by patent dated February 13, 1793, became Attorney General. His seat being thus again vacated, a new writ was issued on that day, and he was re-elected for Weobly on the 20th. Sir John Mitford, afterwards Lord Redesdale, succeeded him as Solicitor General.

It was in a season of no common difficulty and anxiety, that Sir John Scott entered upon his new office. In the beginning of the year, the King of France had been put to death by his subjects, and the French minister at the Court of St. James's had been directed by the British Government to quit this country. In February, a message to the two Houses of Parliament had acquainted them with his

Majesty's declaration of war against France. The worst principles of the revolutionary agitators had been studiously propagated on this side of the channel: and the republican clubs of Paris were in immediate communication with various societies in England and Scotland. At such a crisis, it was of the utmost importance that the Government not only should possess firmness to exercise the constitutional powers of the Crown, but should enjoy so fully the confidence of Parliament, as to be capable of calling with effect for any legislative assistance which might be necessary to cut off treasonable intercourse and suppress domestic sedition. The knowledge, the courage, and the judgment, required in such circumstances from the law officers of the Crown, were never more eminently combined than in the newly appointed Attorney General.

Among the most mischievous dealings between England and France was, obviously, the supply of arms, stores, provisions, clothing, bullion, and other sinews of war, to the revolutionary leaders at Paris. In the reigns of William and Mary *, and of Anne †, the legislature had specially interfered for the temporary prevention of traffic in military and naval stores, by the penalties of high treason; and, upon the principle of the acts so passed, the British Government now sought to establish, during the existing war, a penal measure of the same kind, remitting, however, the incidents of forfeiture and corruption of blood. Again, among the principal means on which the French relied for defraying the cost of their hos-

* 3 W. & M. ch. 13.

† 3 & 4 Anne, ch. 13. — in the common editions, ch. 14.

tilities, was the disposal of the confiscated estates: and thus the prevention of any British investment in purchases, or mortgages, of French lands, became an object of two-fold importance, as it would abridge the enemy's means of hostility, and as it would withhold British subjects from becoming interested in the enemy's territory. The British Government therefore proposed to render every investment in the lands or public funds of the enemy an act of high treason. On the same principle of precluding a British interest in hostile property, the marine insurance of ships or goods belonging to the enemy was treated by the Government of England as inconsistent with good policy; and still more the insurance of warlike stores and provisions on their voyage to the enemy's dominions, whosoever might be the owner. These transactions it was proposed to prohibit, under pain of imprisonment; and the same kind of penalty was held out against the transit of British subjects to or from the dominions of France, except under special licence from the Crown. But as it was at first thought expedient, with respect to the treasons constituted by this act, that they should not involve forfeiture or corruption of blood, — so, on the other hand, it was originally intended that the defendant should not enjoy the peculiar protections allowed (in treasons involving those extreme penalties) by the statutes of 7 Wm. 3. chap. 3., and 7 Anne, chap. 21., which require the offence to be proved by the oath of two witnesses, and entitle the defendant to full defence by counsel, to a copy of his indictment, and to other advantages.

The preparation of a bill for the effectuation of

these several objects, was devolved upon the Attorney General, who accordingly, on the 15th of March, 1793, introduced to the House of Commons the measure generally known by the name of the Traitorous Correspondence Bill.

It was met by Mr. Fox and his party in both Houses of Parliament with the most vehement resistance. They represented it as brought forward for no other purpose than to spread a false alarm. The Attorney General, they said, had not ventured to prosecute a single individual for any offence against the allegiance of a British subject; and yet the country was defamed as being in a state to require an aggravation of the treason laws. The attempt at preventing the supply of arms and stores would be a futile one; because prohibitions upon any trade were always found unavailing against a large profit. The particular prohibition suggested in this bill was more especially injurious, in that it denounced the penalties of high treason, not only against the actual supply of contraband stores, but even against the bare agreement for supplying them; and it was contrary to the true principles of criminal jurisprudence thus to place inchoate and complete crimes in the same degree. The Statute of Frauds forbids any suit upon a verbal agreement for a sale of more than 10*l.* value; and yet this bill would, upon such mere agreement, deprive a man of his life: and this, too, on the evidence of a single witness, since the ordinary protections, requiring two witnesses in trials for high treason, were not intended to attach. The prohibition to lay out money in French lands or funds,

was a violation of that right to dispose of property, which, in every free country, is considered as deserving the highest protection of the law. As far as the French funds were concerned, there were these two peculiar objections to the prohibition; first, that it would be retaliated by France, so as to drive all French capital out of the funds of England; and secondly, that the French government would be gainers, and not losers, by any measure which should have the effect of forcing Frenchmen to employ their capital in their own funds. If new treason laws were now to be enacted, they ought, at all events, to be accompanied with the same protections which were given in other cases of treason, by the statutes of 7 Wm. 3. chap. 3. and 7 Anne, chap. 21. The non-infliction of forfeiture and of corruption of blood, under the present bill, was no valid reason for withholding those protections: for in other cases of treason, although the penalties of forfeiture and corruption of blood were no longer to exist after the death of the Pretender's last surviving issue, the Cardinal of York, the protections were to continue permanent. And it was material to consider that the words by which this bill proposed that it should be treason in any of the king's subjects to do the acts thereby forbidden, included the king's subjects in Ireland, upon whom the British parliament had no right to exercise its legislation. The prohibition against an Englishman's returning to his own country was pre-eminently monstrous; it was to give the king a power of banishing, for the whole continuance of the war, any British subject who should be in France. The prohibition of insurance

was less important, but it was impolitic; because the clear profit of the underwriter, which was the excess of the premium beyond the actual value of the risk, was just so much gained to the country granting the insurance.

To these arguments it was answered, by the Attorney General and other members of the government, that the original precedent of this bill, the statute of 3 W. & M., was made in the most constitutional days of British history, and would be the safest guide in this perilous time. A certain degree of constraint might be necessary for the preservation of liberty itself, as men besieged would sometimes voluntarily cut off all external communication, and actually imprison themselves for their own safety. The acts proposed to be prohibited were to be measured, not by their moral turpitude, but by their present tendency to injure the community. There was no valid analogy in reasoning from civil actions to criminal prosecutions. The clause prohibiting the purchase of lands was a new one, but it was called for by the peculiarity of the conjuncture. The confiscated estates of proprietors driven into exile were now the main fund of the French government; the terms on which the land was offered were the most advantageous, and yet there were no purchasers in France; so that to foreign capital alone could the revolutionary leaders look for means of carrying on the war. And with reference to the soil and to the funded securities of France, as well as to the maritime insurance of her property, it was desirable, at such a juncture, to prevent British subjects from becoming in any way mixed up with her interests.

The exemption from forfeiture and corruption of blood appearing to several members an insufficient ground for excluding the protections provided for defendants in high treason by the statues 7 W. 3. ch. 3. and 7 Anne, ch. 21., the exemption was struck out, and the bill made to include all the penalties, and carry with it all the protections, which are incident to high treason in general. The objection as to Ireland was met by confining the operation of the measure to offenders in Great Britain; and the clause which made it an offence, punishable with imprisonment, for an Englishman to return to his own country without licence, was given up, although in the statute 3 W. & M. such a return had been subjected to the penalty of imprisonment, and in the statute of 3 & 4 Anne to the penalties of high treason. With these modifications, the bill passed into a law, under the title of "An Act more effectually "to prevent, during the present war between Great "Britain and France, all traitorous correspondence "with, or aid or assistance being given to, His "Majesty's enemies:" 33 Geo. 3. ch. 27. It expired, like each of the acts on which it was founded, with the war to which it was made applicable; but the Attorney General's immediate connection with it, and the importance which attaches to the whole series of these temporary acts as a class of precedents in war, have been considered to require this digest of its character, chief contents, and history.

Some degree of public excitement had been occasioned by the prosecution which the preceding Attorney General, Sir Archibald Macdonald, had instituted against Thomas Payne, at the close of 1792,

for his notorious work, The Rights of Man. In the beginning of 1793, a grand jury of the county of Middlesex found a bill of indictment for seditious words against another politician of the same sort, an attorney, named John Frost. As Sir Archibald Macdonald, by whom *this* indictment likewise was originally preferred, had been raised to the bench before it came on for trial, the discretion of continuing or discontinuing the prosecution devolved on his successor, Sir John Scott: and he resolved to persevere. Of this case, which was tried on the 27th of May, 1793, the circumstances were shortly, that on the evening of the 6th of the November preceding, Frost, who had been dining with a party at the Percy Coffee House, came into the public coffee-room, and that, being there asked, by an acquaintance who knew that he had lately returned from France, how matters went on in that country, Frost answered, "I expect soon to go there again: I am for equality: "I can see no reason why any man should not be "upon a footing with another: it is every man's "birthright." That he was asked, what he meant by equality: to which he answered, "Why, I mean "no king. The constitution of this country is a bad "one." That there was then a strong expression of displeasure from the persons present; upon which a gentleman got him to the door, and induced him to go out. It was intimated by Mr. Erskine for the defence, that the evidence was given in breach of the confidence of private life, and that Sir John Scott was persisting in the prosecution, not because it had his own approbation, but because it had been devolved

upon him by his predecessor.—"I protest," said Sir John Scott, in his reply,—

"I protest against that doctrine, that the Attorney General "of England is bound to prosecute, because some other set of "men choose to recommend it to him to prosecute, he dis- "approving of that prosecution. He has it in his power to "choose whether he will or not, and he will act according to "his sense of duty. Do not understand me to be using a "language so impertinent as to say, that the opinions of sober- "minded persons in any station in life, as to the necessity "that calls for a prosecution, ought not deeply to affect his "judgment. But I say it is his duty to regulate his judg- "ment by a *conscientious* pursuance of that which is recom- "mended to him to do; and if any thing is recommended to "him which is thought by other persons to be for the good "of the country, but which he thinks is not for the good of "the country, no man ought to be in the office who would "hesitate to say, 'My conscience must direct me, your judg- "'ment shall not direct me.' And I know I can do this: "I can retire into a situation in which I shall enjoy what, "under the blessings of that constitution thus reviled, is "perhaps the best proof of its being a valuable constitution— "I mean the fair fruits of a humble industry, anxiously and "conscientiously exercised in the fair and honourable pursuits "of life. I state, therefore, to my learned friend, that I "cannot accept that compliment which he paid me, when he "supposed it was not my act to bring this prosecution before "you, because it was not what I myself could approve. "Certainly this prosecution was not instituted by me; but "it was instituted by a person, whose conduct, in the humane "exercise of his duty, is well known, and I speak in the pre- "sence of many who have been long and often witnesses to "it: and when it devolved upon me to examine the merits of "this prosecution, it was my bounden duty to examine, and "it was my bounden duty to see if this was a breach of the "sweet confidences of private life. If this was a story "brought from behind this gentleman's chair by his servants, "I can hardly figure to myself the case in which the public "necessity and expediency of a prosecution should be so

"strong as to break in upon the relations of private life. "But is this prosecution to be so represented? When a man "goes into a coffee-room, who is, from his profession, certainly "not ignorant of the respect which the laws of his country "require from him as much as from any other man, and "when he in that public coffee-house (provided it was an "advised speaking), uses a language, which I admit it is clear, "upon the evidence given you to-day, provoked the indigna- "tion (if you please so to call it) of all who heard it — "when persons, one, two, three, or more, come to ask him "what he meant by it — when he gives them the explanation, "and when he makes the offensive words still more offensive "by the explanation that he repeatedly gives — will any "man tell me, that if he goes into a public coffee-house, "whether he comes into it from up stairs, or whether he goes "into it from the street, that he is entitled to the protection "that belongs to the confidences of private life, or that it is "a breach of the duties that result out of the confidences of "private life to punish him?"*

The jury pronounced the defendant guilty.

The 27th of May produced a debate in the House of Commons, upon the bill for preventing bribery and corruption in the elections at Stockbridge. This was one of a series of attempts at throwing open the right of voting in particular boroughs to more numerous constituencies, on the ground of abuses committed by considerable numbers of the existing electors. To this bill, as well as to the other attempts of a like nature, which were made from time to time till the passing of the Reform Act in 1832, the great lawyer who is the subject of these memoirs was steadfastly adverse.

The ground-work, he observed, was the report of an election committee, before which tribunal the individual voters implicated had no opportunity of defending themselves. Such

* 22 Howell's State Trials, pp. 510, 511.

a bill was, moreover, a bill of pains and penalties, an *ex post facto* law; and he was not willing to punish any man's offence by a law which did not exist when that offence was committed. If such bills were favoured merely as steps to parliamentary reform, it would be more manly and more consonant with the general principles of justice to bring in at once a direct measure for reforming the representation, than to attempt that object by means repugnant to the laws of England and to every idea of sound jurisprudence.

On a division, the Stockbridge Bill was thrown out.

The revolutionary poison, distributed by the French republicans, had now begun to operate extensively among that ever-irritable class of the public, whom idleness, ignorance, a violent temper, and a shallow understanding, predispose to receive with willing ears the "leperous distilment." A time therefore was considered by the government to have arrived, when the safety of the state required prosecutions which should involve heavier consequences than those attaching under the English law to mere sedition. The first experiments were made in Scotland, the courts of law in that part of the kingdom having then unrestricted power (since reduced by 6 Geo. 4. ch. 47.) to visit sedition with the penalty of transportation. Accordingly Mr. Muir, of Hunter's Hill; and the Rev. Thomas Fysshe Palmer, being severally convicted of this offence, (the former before the High Court of Justiciary in Edinburgh, in the month of August, 1793, and the latter, in the September of the same year, before the Circuit Court of Justiciary at Perth,) were sentenced to transportation, Mr. Muir for fourteen years, and Mr. Palmer for seven. These judgments, which, though they

may not have exceeded the necessity of the case, were startling to those acquainted only with the mild tenor of the English law, produced much animadversion in both Houses of Parliament. After several motions, on all of which the government had been upheld by large majorities, Mr. Adam, on the 25th of March, 1794, moved for a committee to revise the law of Scotland and the powers and process of her courts, in matters of this nature; but was strongly opposed by the Attorney General, who relied on the compact of the Union, and vindicated the principle of discretionary punishment; and the proposed Committee was refused. The question was finally set at rest by a resolution, which the Lord Chancellor Loughborough moved and carried in the House of Lords, "That there is no ground for interfering in the "practice of the established Courts of Criminal Jus-"tice, as administered under the Constitution, and "by which the rights, liberties, and properties, of "all ranks of subjects are protected."

Another constitutional question was mooted in the House of Commons on the 28th of March, when the Attorney General resisted a resolution, moved by Mr. Sheridan, "That it is a dangerous and uncon-"stitutional measure for the Executive Government "to solicit money from the people, as a private aid, "loan, benevolence, or subscription, for public pur-"poses, without the consent of Parliament."

Mr. Sheridan complained, that application had been made through the Secretary of State to the lords-lieutenants of counties, to promote a subscription among the people, not within the control or cognizance of Parliament, — and this, even while Parliament was sitting. Such a levy, he con-

tended, was contrary to the principles of a representative constitution, inconsistent with good and ancient usages, and in itself unfit as a source of revenue.

The Attorney General met this motion by what is called "the previous question." This does not mean, as is very commonly supposed, that question which, on the list of notices or orders of the day, may happen to stand immediately previous to the motion thus resisted; but means simply the question, whether it be the pleasure of the House that the resisted motion be put to the vote at all. It is chiefly where the resisted motion goes to affirm some proposition, which, though true, it may not be seasonable to assert, or upon which, from its abstract nature, the expression of a parliamentary opinion may be imprudent or superfluous, that the previous question, viz. whether such resisted motion shall be put to the vote at all, is found a useful form of procedure. The House is then protected by it from committing itself to indiscreet generalities; while the individual members who vote that the resisted motion shall not be put, are understood as not concluding themselves with respect to its merits, or to the determination they might have given upon it if it had been suffered to go to a direct division.

In proposing, on this occasion, to substitute the previous question for the abstract resolution moved by Mr. Sheridan, the Attorney General demonstrated, from legal and from historical authorities, ancient as well as modern, that voluntary aids are strictly consonant both with the principles and with the practice of the British Constitution; and pointed out, that although Mr. Fox's friends, the Lords Camden and Ashburton, had, in 1778, when opposed to the Government, been adverse to the opening of a subscription for the American war, yet,

in 1782, the Cabinet of Mr. Fox and Lord Shelburne, of which the two noblemen before mentioned were members, had issued circular letters, in which subscriptions were recommended for the augmentation of the means of national defence.

Mr. Fox replied, that, having collected from Mr. Pitt's intimations on a former night some intention on the part of ministers to charge him with inconsistency, he had been curious to learn by whom the charge was to be brought. The Chancellor of the Exchequer, himself obnoxious to such imputations, was not likely to undertake the service. "I "was pretty certain, therefore," continued Mr. Fox, "that "this charge of inconsistency must come from some young "member: as a young member would be the least liable to "have the charge of inconsistency retorted upon him. The "contest, for some time, upon whom this duty should fall, "seemed to lie between a young member (Mr. Jenkinson) "and the learned gentleman who made the motion, and who, "though not a young member, is young in respect of the "transactions of which he has taken upon himself to speak. "It would have been an object of amusement to have had a "view of the divan, when consulting who was the fittest "person to discharge this important duty. It puts me in "mind of a ridiculous story, which I shall take the liberty to "relate: — An Englishman, in a French lodging, being im-"perfectly acquainted with the language of the people, and "having occasion for the assistance of the maid, could dis-"cover no other way of expressing his ideas, but by calling "for *la pucelle*. The women in the house were in a dreadful "dilemma, on hearing this demand repeatedly enforced; and "at length a girl of seven years of age was presented to the "traveller, as best answering the description of the person "he required. In conformity to this rule, the virgin purity "of the learned Attorney General was pitched upon by "the minister, to expose political prostitution and incon-"sistency." *

The vote being taken upon the previous question,

* 31 Parl. Hist. pp. 112, 113.

the House decided, by a large majority, that Mr. Sheridan's motion should not be put; and a similar fate attended a similar motion, made on the same evening, by the Earl of Lauderdale, in the House of Lords.

As Sir John Scott's reputation increased, the Prince of Wales became curious to learn the real merits of a lawyer so highly estimated by his party, and by the public. "I should like to hear *your* opinion of him," said the Prince to Lord Thurlow. "Sir," said Lord Thurlow, "I know him to be a very sound lawyer, and a very honest man." In after-times, when it devolved upon Lord Eldon, as the Chancellor of George the Third, to take part in proceedings distasteful to the Prince, his Royal Highness said tauntingly to Lord Thurlow, "What think "you now, my Lord, of your old friend Scott, whom "you puffed to me as a sound lawyer, and an honest "man ?"—"Indeed, Sir," answered Thurlow, whose advanced age had abated neither his convenient courtliness nor his jocular coarseness, "I think he has lost "the little law he once had, and is become a very "great scoundrel."

In the next story, the triumph is with Sir John Scott. The Anecdote Book relates it thus: —

"After the Duke of Sussex had married Lady Augusta Murray, which marriage was in law void because the king had not consented to it, the whole transaction was examined into before the Privy Council. The lady's mother was much questioned by Lord Thurlow, with a view of proving that, her daughter being much older than the Duke, the young man had been taken in. She could not, however, recollect what her daughter's age was. — It

seemed singular that banns should be published, where one of the parties was of the Royal Family, and that the clergyman publishing the banns should not be struck upon the reading of the name; it appeared, however, that in the parish there were many of the name (I think Augustus Frederick) by which he was called in the publication. — Then, great blame was imputed to the rector for publishing the banns without inquiry as to the residence of the parties in the parish: so it was proposed to call upon the clergy of the church, St. George's, Hanover Square, to account for the marriage having taken place by banns, without the proper residence of the party in the parish, and without their knowing the parties. The rector first appeared: he said he had two most respectable curates, and he had always most solemnly enjoined them not to marry parties without having first inquired about their residence. The curates were then examined, and they said theirs was a most respectable parish clerk, who wore a gown, and they had always most solemnly given a like injunction to him. The clerk was then called, and he declared that no man in the parish had a more excellent careful wife than he had, and that he daily gave her most solemnly a like injunction. She then made her appearance, and said that she must sometimes be about her own, and not about parish business; but that she had two female servants, as discreet as any in the parish, and she had always given them a like solemn injunction, when any body brought a paper about publication of banns in her and her husband's absence, to make proper inquiries about the parties' residence. All this put Lord Thurlow

out of humour, and he then said to me angrily, 'Sir, why have you not prosecuted, under the Act of Parliament, all the parties concerned in this abominable marriage?' To which I answered, 'That it was a very difficult business to prosecute — that the Act, it was understood, had been drawn by Lord Mansfield, *and Mr. Attorney General Thurlow*, and Mr. Solicitor General Wedderburne, and unluckily they had made all parties present at the marriage guilty of felony; and as nobody could prove the marriage except a person who had been present at it, there could be no prosecution, because nobody present could be compelled to be a witness.' — This put an end to the matter. Afterwards there was a suit in the Commons, and the marriage was there declared void."

CHAPTER XII.

1794.

REVOLUTIONARY SOCIETIES. — MESSAGE TO PARLIAMENT. — SUSPENSION OF THE HABEAS CORPUS ACT. — PROSECUTIONS OF HARDY AND OTHERS, FOR HIGH TREASON: INDICTMENT: COUNSEL. — TRIAL OF HARDY. — OUTLINE OF FACTS. — SPEECHES OF THE ATTORNEY GENERAL, MR. ERSKINE, MR. GIBBS, AND THE SOLICITOR GENERAL: SUMMING UP OF LORD CHIEF JUSTICE EYRE. — STATE OF PUBLIC FEELING AND DANGER OF THE ATTORNEY GENERAL: VERDICT OF ACQUITTAL. — TRIAL AND ACQUITTAL OF THE REV. J. HORNE TOOKE. — TEMPER AND CONDUCT OF THE ATTORNEY GENERAL AND MR. ERSKINE: HUMOUR OF MR. TOOKE. — TRIAL AND ACQUITTAL OF THELWALL. — DISCONTINUANCE OF THE REMAINING PROSECUTIONS. — LORD ELDON'S VINDICATION OF HIS OWN COURSE.

THE convictions of Mr. Muir and Mr. Palmer had been followed by the separate trials and convictions of three other Scotch agitators, — Mr. Skirving and Mr. Margarot, in January, 1794, and Mr. Gerald in March of the same year, — who were all sentenced to fourteen years' transportation. But these examples in Scotland, though useful there, were quite ineffectual to repress seditious movement in the southern part of Great Britain, where the maximum of punishment was so much lower. Political societies were assembling in formidable numbers throughout England, ostensibly for the object of working a reform in the parliamentary representation of the people, but really with a view, on the part of their most active leaders, to the substitution of a republican for a monarchical policy. The first principles of government had not been made the subjects of po-

pular excitement since that great conflict between royalist and democratic opinions, which terminated in the restoration of Charles the Second: and the theories of revolution were now revived with a zeal and activity proportioned to the length of time during which they had been dormant. The principal seats of the new associations were the commercial and manufacturing towns, where large bodies could be congregated at short notices and on frequent occasions. The people so confederated were chiefly of the lower ranks, men dissatisfied with the existing distribution of the world's goods, — the orators and other leaders among them persuading themselves that their talents merited a wider and more lucrative sphere of action, — and the hearers and followers in general hoping to catch, by a scramble, what they had not patience to earn by regular industry. The higher classes endeavoured to stem the mischief by a counter-association against republicans and levellers; but this had little influence: and the government now decided to institute in England measures corresponding, as nearly as the difference of laws and circumstances would permit, with the policy pursued in Scotland. Accordingly, on the 12th of May, 1794, a royal message was brought to the House of Commons by Mr. Dundas, Secretary of State for the Home Department, acquainting the House that his Majesty had received information of seditious practices, carried on by corresponding societies, directed to the assembling of a general convention, and tending to the mischiefs already prevalent in France; that the books and papers of those societies in London had consequently been seized; that his Majesty's

orders had been given to lay them before the House: and that his Majesty recommended it to parliament to consider them and take the necessary measures of precaution and defence. On the following day the books and papers were presented, and referred to a secret committee of twenty-one members, who made their first report on the 16th. The circumstances detailed in that paper were considered by ministers to be of a nature requiring the immediate suspension of the Habeas Corpus Act: and on the same evening, therefore, a bill to that effect was proposed by Mr. Pitt, in a motion wherein he gave an outline of the leading facts contained in the report:

A plan, he said, had been concocted, having for its object a convention of the people, which was to supersede the representative capacity of that House, and arrogate the whole legislative power to itself. Reform had been made the pretext of the societies conducting this design, but was far from being their true object. Their system, which had been for two years in preparation, was founded on the modern and monstrous doctrine of the Rights of Man — that doctrine which had wrought the destruction of France, and the confusion of all Europe. The societies in England had sent delegates to the National Convention in Paris; had continued to act with the Jacobin faction, and to follow its forms and proceedings, even after its declaration of hostilities against this country; and had pursued a settled design to disseminate its pernicious principles: for which purpose, as the report would show, a list had been prepared by them, of towns containing large, ignorant, and restless multitudes, likely to concur in the proposed designs, and to spread them by branch societies. In particular, the agitators had corresponded with the British Convention at Edinburgh, had taken up the cause of its legally convicted members, and had expressly made the condemnation of those guilty persons the signal for coming to the issue, whether they should yield to the law, or oppose it

by insurrection. Still stronger was that part of the case which related to a society in London, mean in talent and education, yet formidable in proportion to that very meanness — a society already containing in the metropolis no fewer than thirty divisions of several hundred persons each, corresponding with other associations among the discontented population of the manufacturing towns; and assuming a power to prescribe limits, beyond which, if parliament presumed to pass, the termination of its very existence was threatened. Meanwhile, arms had been procured and extensively distributed. Now although, in his judgment, the designs of the conspirators were not likely to have succeeded, they were mischievous enough to require instant precaution: and the resource he would propose at present was a bill for the temporary suspension of the Habeas Corpus Act, as to persons suspected of conspiracy against the Crown.

Mr. Fox, Mr. Grey, Mr. Sheridan, and other Whig members resisted this proposal, which was supported by Mr. Burke and the Attorney. General. The bill was brought in at once, and in the same sitting, after repeated divisions, was carried through all its stages except the third reading, which was adjourned to the following afternoon, that of Saturday the 17th. The debate and divisions upon, and arising out of, the third reading, occupied the House till three o'clock on the Sunday morning, when the bill passed. On the Monday it was read a first time in the House of Lords, and on Thursday the 22d it passed through its remaining stages there, against a vehement though not numerous body of opponents. Its title was, "An Act to empower his Majesty to secure "and detain such persons as his Majesty shall sus- "pect are conspiring against his person and govern- "ment:" and it provided that parties apprehended on such suspicion, under warrant from the Privy

Council, might be detained in custody until the 1st of February, 1795.*

So extensive was the combination against which the government had now resolved to direct the powers of the law, that the whole of the summer was required in preparing the cases selected for prosecution, and in marshalling the process against the various confederates. On the 10th of September, the special commission was issued for the trials of these offenders. It was opened on the 2d of October, and on the 6th a true bill for high treason was returned by the grand jury against twelve men: — Thomas Hardy, shoemaker; John Horne Tooke, clerk; Steward Kyd, Esq.; John Augustus Bonney, Jeremiah Joyce, Thomas Wardle, Thomas Holcroft, John Richter, Matthew Moore, and John Thelwall, gentlemen; Richard Hodgson, hatter; and John Baxter, labourer. A thirteenth, John Lovett, was indicted; but against him the bill was ignored.

The crime, with which Hardy and his fellow-prisoners stood charged in the indictment, was that of high treason in compassing the death of the King. This compassing of the King's death was alleged as the substantive treason; and the overt acts of this compassing, that is, the acts done in prosecution of the design, were, as charged in the indictment, nine in number; the first four relating to the assembling of a convention for the subversion of the government and deposition of the King; the fifth, seventh, and eighth relating to a conspiracy for subverting the government and deposing the King without any alle-

* 34 Geo. 3. ch. 54.

gation respecting a convention: and the sixth and ninth relating to a conspiracy to levy war against the King within the realm. These overt acts may be individually abstracted thus: — 1. Consenting and conspiring to procure a convention for traitorously subverting the legislature and government, and for deposing the King. 2. Writing and publishing books and papers which contained incitements to the King's subjects to send delegates to such traitorous convention. 3. Consulting upon the assembling of such traitorous convention, and the manner, time, and place of holding it, and the means of inducing the King's subjects to send delegates thereto. 4. Agreeing that Horne Tooke and others of the prisoners (of whom Hardy was not one), with three other persons (not included in the indictment) should meet, confer, and co-operate for assembling such traitorous convention. 5. Causing, and agreeing to, a provision of arms, for forcibly opposing the King in the execution of the laws of the realm, and for forcibly and traitorously subverting the legislature and government, and for aiding to depose the King. 6. Meeting, conspiring, and consulting to levy war against the King within the realm. 7. Meeting, conspiring, and consulting traitorously to subvert the legislature and government, and to depose the King. 8. Preparing, composing, publishing, and dispensing books, and papers which contained incitements to the King's subjects to assist in such traitorous subversion and deposition, and instructions to them, how, where, and on what occasions the traitorous purposes last aforesaid might be effected. 9. and last, Providing, and

agreeing to provide, arms, to levy war, insurrection, and rebellion against the King within his kingdom.

On the 25th of October, the prisoners having been arraigned and having pleaded not guilty, the Attorney General announced that, as their counsel desired they might be separately tried, he would proceed first on the trial of Hardy; which was then, at the request of his counsel, adjourned to Tuesday the 28th.

On that day, at the Sessions House in the Old Bailey, the trial began. The counsel for the Crown, with Sir John Scott then Attorney General, were Sir John Mitford then Solicitor General, Serjeant Adair, Mr. Bearcroft, Mr. Bower, Mr. Law, Mr. Garrow, and Mr. Wood. Hardy was defended by Mr. Erskine and Mr. Gibbs, with whom, as assistant counsel, were Mr. Dampier, Mr. Felix Vaughan, and Mr. Gurney.*

The signal importance of the case, the extraordinary length of time which it occupied, and the great responsibility which it imposed on the Attorney General, seem to require that, in any biographical account of him, some outline should be attempted of the main questions of fact and of law, which were raised by the trial. His opening speech occupied nine hours: and, that the reader may the better understand its grounds, the order of the actual proceeding has, in the following pages, been so far inverted, that the summary of the principal facts established by the evidence is here presented before the abstract of the opening speech.

* Mr. Law, afterwards Lord Ellenborough, Lord Chief Justice of England: Mr. Garrow and Mr. Wood, afterwards Barons of the Exchequer.—Mr. Erskine, afterwards Lord Erskine and Lord Chancellor: Mr. Gibbs, afterwards Lord Chief Justice of the Common Pleas: Mr. Dampier, afterwards a Judge of the King's Bench: and Mr. Gurney, now a Baron of the Exchequer.

The prisoner, Hardy, was secretary of an association, called the London Corresponding Society, which, in the spring of 1792, received its constitution from Mr. Horne Tooke. Its professed object was Parliamentary Reform: which was declared, (in one of its fundamental resolutions, signed by Hardy, and distributed gratis,) to be impracticable *until the abolition of all partial privileges.* The spirit of that resolution will be sufficiently understood from a sample of the definitions which it laid down: thus: "*Subject:* Can only with propriety be applied to a "member of a state, whose government has been "instituted by foreign conquest, or the prevalence of "a domestic faction. — *Republican:* One who wishes "to promote the general welfare of his country,"— &c. &c.

On the 13th of July, Hardy, and five other members recommended by the Society for that purpose, were admitted as associated members of another similar body, calling itself the Society for Constitutional Information. These Societies held correspondence and connection, or, according to the phrase of those days, were affiliated, with others of a like character, at Sheffield, Norwich, Derby, Stockport, and elsewhere.

The London Societies, and the Associations connected with them, were wont to quote, and hold up for public admiration, the great agitator of republicanism, Thomas Paine, who, one fortnight after Hardy's admission into the Constitutional Society, was addressed by it in a letter, applauding "the eminent services "rendered to the public" by Mr. Paine's "invaluable "writings." Those writings were disseminated in

cheap editions by some, if not all, of the Associations; and the Corresponding Society, in a list of healths, drunk at one of its anniversary dinners and published in the newspapers, inserted this toast and sentiment, "*Citizen Thomas Paine:* may his virtue rise superior "to calumny and suspicion, and *his name still be dear* "*to Britons.*" Among the papers seized in Hardy's house, were two printed books, one entitled, "Letter by Thomas Paine to the People of France, *published and distributed gratis by the London Corresponding Society,*" (of which it will be remembered that Hardy was the secretary,) and the other a copy of Paine's "Rights of Man" in the cheap edition. The following passages are a portion of the extracts read to the jury from the "Rights of Man," as evidence of the intentions of the Societies by whom that work and its author were adopted. Speaking of "Govern-"ment by hereditary succession," the author says, —

"As the exercise of government requires talents and abili-"ties, and as talents and abilities cannot have hereditary "descent, it is evident that hereditary succession requires a "belief from man, to which his reason cannot subscribe, and "which can only be established upon his ignorance: and *the* "*more ignorant any country is, the better it is fitted for this* "*species of government.* A general revolution in the prin-"ciple and construction of governments is necessary. Though "by force or contrivance it (government) has been usurped "into an inheritance, the *usurpation* cannot alter the right of "things. *Sovereignty, as a matter of right, appertains to the* "*nation only, and not to any individual.* The romantic and "*barbarous distinction of* men into *kings and subjects,* though "it may suit the condition of courtiers, cannot that of citi-"zens. Every citizen is a member of the sovereignty, and, "as such, *can acknowledge no personal subjection:* and his "obedience can be only to the laws. *All hereditary govern-*

"*ment is in its nature tyranny.* By continuing this absurdity, "man is perpetually in contradiction with himself: he ac- "cepts for a king, or a chief magistrate, or a legislator, a "person whom he would not elect for a constable."

The letter to the people of France was in much the same strain. Mr. Paine there said,—

"When the bagatelles of *monarchy, royalty, regency, and* "*hereditary succession shall be exposed, with all their absurdi-* "*ties,* a new ray of light will be thrown over the world, and "*the revolution will derive new strength by being universally* "*understood.* It is now *the cause of all nations against all* "*courts.*"

Several addresses, from republican societies in France to the London Constitutional Society, were seized in the house of Daniel Adams, the secretary of *that* body. One of them contained this appeal of the French to the English republicans: "Can ye any "longer groan under the yoke of a government that "has nothing of liberty but the name? No, brethren "and friends, no! *you will soon lift yourselves up* "*against that perfidious government of St. James's,* "whose *infernal* policy, like to *that which found its* "*tomb in the Thuilleries,* has made so many victims "in our two nations." Another of these addresses entered into a justification of "the *necessary day* of "the 10th of August, 1792." The events of this 10th of August must be borne in mind, in order duly to estimate the character of the subsequent proceedings of the London Societies. On that day the palace of the Thuilleries, from which the king and the royal family had been obliged to fly for their lives to the national assembly, was attacked by a large body of insurgents, who massacred the guards

and domestics. The national assembly gave way to the rebels; a national Convention was summoned to settle the future government; the King was provisionally suspended from his royal functions, and committed to close custody; and the executive power was vested in a new council.

In the October next following these events, the London Corresponding Society, declaring themselves "called upon to countenance the struggle of the "French nation against despotism and aristocracy," resolved upon addressing the French National Convention: and, among their announcements of this resolution, was a letter from them to a Society at Stockport, saying, "Without entering into the *pro-* "*bable effects* of such a measure, *which your Society* "*will not fail to discover*, we invite you to join us." The draft of such an address was communicated by the London Corresponding Society to the other Associations. The draft transmitted to the Constitutional Society (in a letter dated the 11th of October, 1792, and signed by Margarot as chairman and by Hardy as secretary) contained these, among other violent passages:—

"If you succeed, as we ardently wish, the triple "alliance, *not of crowns, but of the people* of America, "France, and Britain, will give freedom to Europe, "and peace to the whole world."—"How well pur- "chased will be, *though at the expense of much blood*, "the glorious, the unprecedented advantage of say- "ing, Mankind is free! *Tyrants* and tyranny *are* "*no more!*"—The Constitutional Society prepared an address of the same sort, and sent it to the French Convention, with a donation of a thousand pairs of

shoes, and a promise of more, for "the soldiers of liberty." The address began thus: —

"Servants of a *sovereign people* and *benefactors of* "*mankind*, *we rejoice that your Revolution* has arrived "at that *point of perfection*, which will permit us to ad- "dress you by this title." It went on, "From bosoms "burning with ardour in your cause, we tender you "our warmest wishes for *the full extent of its progress* "and success." — "The splendour of the French Re- "volution burst forth upon the nations in the full "fervour of a meridian sun, and displayed, in the "midst of the European world, *the practical result* of "principles, which *philosophy* had sought in the shade "of speculation, and *which experience must everywhere* "*confirm*."

The delegates, employed by the Society to present this address at the bar of the French Convention, were Joel Barlow and John Frost. The former of these envoys had just published and transmitted, both to the Corresponding and to the Constitutional Societies, a letter addressed to the French Convention, in which he spoke of "the *cheat of royalty*," and appealed to the experience of the French as proving "*that Kings can do no good.*" This letter was communicated by Hardy to his own division of the Corresponding Society, and read there in his presence, with loud plaudits: and the Constitutional Society, also in Hardy's presence, resolved to prepare an answer to Barlow, "expressing how much pride this "society feel at having elected him a member." It will be remembered that Frost, the other envoy, had shortly before been convicted of sedition, in declaring before several persons, that he was for equality and

"no King." Barlow and Frost, in executing their commission at the bar of the French Convention in November 1792, concluded their speech with these words:—"It would not be strange, if, in a period far "short of what we should venture to predict ad- "dresses of felicitation should cross the seas to a "*National Convention in England.*" The president's answer, which was found entered *in the books of the Constitutional Society*, contained these phrases:—"You "have addressed us with *something more* than good "wishes" (the supply of shoes for the soldiers), "since the condition of *our warriors* has excited your "solicitude. The defenders of *our* liberty will one "day be the supporters of *your own*."—"The moment "cannot be distant when the people of France will "offer their congratulations to a *National Convention* "*in England.*"—"Generous *Republicans*, your ap- "pearance in this place will form an epoch in the "history of mankind."

A society at Norwich having written to Hardy on the 11th of November 1792, to know whether "the "generality of the societies mean to rest satisfied "with the Duke of Richmond's plan only" (that of universal suffrage and annual election), "or *whether* "*it is their private design to rip up monarchy by the* "*roots, and place democracy in its stead,*" Hardy, who had, on the 1st of the preceding October, been appointed, by division No. 2. of the Corresponding Society, to be its delegate to the standing committee of the several divisions, reported this Norwich letter to his own division; but "they suspected that this "was to draw them into some unguarded expressions, "and declined answering." An answer, however,

was written by Margarot, of which a draft or copy was found in Hardy's house. It stated, that the committee of the Corresponding Society "mean to "disseminate political knowledge, and thereby engage "the judicious part of the nation *to demand* a re- "storation of their rights in annual parliaments," to be elected by universal suffrage: that the committee "look upon the *trifling*" (the word *little* struck out and the word *trifling* substituted) "*differences* "that may have arisen between the several Societies" "*to be of very little consequence*, and think they will "subside without any ways injuring the cause:"— and presently follows a recommendation "to leave "monarchy, democracy, and even religion, entirely "aside." The framers of this answer, however, notwithstanding the before-mentioned suspicion of an attempt to entrap, make no disclaimer in it of the "private design to rip up monarchy by the roots," nor express any horror or indignation at being supposed capable of such an intention; but wind up their epistle by declaring themselves "friends to peace, not "anarchy, and well wishers to the rights of man; "yet *not so sanguine as to imagine* those rights will "be restored by the *spontaneous consent* of those who "have so long deprived mankind of them."

On the 10th of January 1793, at a meeting of the Corresponding Society's delegates, some remarks were made upon a letter from a Society called the Friends of the people, which contained a caution to the Corresponding Society. "In consequence of those "remarks," a delegate named Bell made this observation to the meeting: "Our addresses to the Con- "vention of France prove, that we mean *their laws*

"*here.*" Mr. Margarot said, "No doubt." It passed (said a witness who had been present) with the "silent assent of the rest of the company." Seventeen delegates were there, of whom Hardy was one. A witness named Lynam, himself a member, had kept notes of the proceedings at many of these meetings, and he said, "I do not remember Hardy being absent one night." At a subsequent meeting, said this witness, "there was a good deal of conversation, that "the Society of the Friends of the People did not go "so far in their idea as the London Corresponding "Society and the Constitutional Society did; for all "along it was held as an invariable idea, that eventually *it must come to a struggle.*" At the meeting of delegates on the 7th of February, Hardy being present, a proposal was made for supplying a deficiency in the rent of the room used by Baxter's division, No. 16. Upon this, Margarot said, "We "must preserve the divisions No. 25. and 16.: being "poor, they will be of great service if *we go to war*,— "he made use," added the witness, "of the term "'*war:*' — and it was mentioned by several of the "delegates that it was eventually expected that there "would certainly be a rising in the country."

While these discussions were going on in London, the National Convention of France, on the 21st of January 1793, brought their King to the scaffold. Even this fearful exemplification of the practical working of a Convention had no effect upon the leaders of the revolutionary party in London: who, on the 15th of the next March, at a meeting of the Constitutional Society, voted a resolution of thanks to Barlow and Frost "for their conduct in the present-

" ation of the address to the National Convention," with an order for publishing that resolution in the newspapers. Nay, before the expiration of the very week in which the French King was beheaded, the same Society resolved, " that Citizen Barrère, a member of " the National Convention of France, being considered " by us as *one of the most judicious and enlightened* " *friends of human liberty*, be admitted an associated " honorary member: " — and seven days after this resolution, they passed another, that Barrère's speech, as reported in the Moniteurs of the 6th and 7th of January, should be inserted in their books. The speech so adopted was that in which he urged the destruction of the King, and in which he uttered the following sentences: —

" The people of Paris, by making *a holy insurrection against* " *him on the 10th of August, deprived him of his character of* " *inviolability.* The people of the other Departments ap- " plauded this insurrection, and adopted the result of it." — " Louis was invested by *the tacit consent of the people* with a " constitutional *inviolability: their tacit consent* has deprived " him of the same, and is therefore as lawful as the grant of " it." — " *The people is the sovereign. A convention is a* " *representation of the sovereignty.* The convention being " assembled, is itself that sovereign will which ought to pre- " vail." — " Invested, from your origin, with the most unli- " mited confidence by your fellow-citizens, you hesitate in " the first step. Am I then no longer in the midst of that " National Convention, *whose honourable mission it was to* " *destroy kings and royalty?*"

Such was the description given by one of its own members, of the objects and duties of that French Convention, whose principles the leaders of the London Society were so forward to applaud, and whose Constitution they were so impatient to obtain.

In the course of the year 1793, steps were taken by Hardy and others to arm the Societies, both with pikes and with guns: and some Divisions of the London Corresponding Society were proved to have drilled at late hours, in private rooms, and under circumstances of concealment. Most of the parties so arming either professed loyal objects, or alleged that the threats of the aristocratical party obliged them to keep arms for their own defence; but as against some of them conversations were proved, establishing a decided intention of using their weapons, in order, as a witness, named Saunderson, expressed it, "to "obtain a parliamentary reform at the point of the "bayonet."

The evidence, however, though positive as far as it reached, yet certainly did not show that these *armaments* had extended to any alarming number of malcontents.

On the 24th of October 1793, Mr. Margarot and Mr. Gerrald were delegated by the London Corresponding Society, to be its representatives at a Convention in Edinburgh for "a thorough Reform in the Parlia-"mentary Representation of Great Britain." This delegation was a measure concerted between Hardy and William Skirving, the secretary of the Edinburgh Convention, Hardy requesting that his own share in that contrivance might be kept secret by Skirving. Before the end of the year, however, the two delegates, and the Secretary Skirving, were apprehended, for their conduct in the Scotch Convention. They were speedily brought to trial, convicted of sedition, and sentenced to fourteen years' transportation, under the law then existing in Scotland for the punishment

of such misdemeanors. Their behaviour throughout was approved by the London Corresponding Society, and Hardy, its secretary, addressed, on the 11th of January 1794, a letter upon the subject of it to Adams, the secretary of the Society for Constitutional Information, saying, "*Now is the time for us to do* "*something worthy of men.* The brave defenders of "liberty south of the English Channel," (the armies of the French Regicides,) "are performing wonders, "driving their enemies before them, like chaff before "the whirlwind."

On the 20th of January 1794, a general meeting of the London Corresponding Society agreed upon an address to the people, and upon certain resolutions. Both the address and the resolutions were printed by Hardy's order. The concluding paragraph of the address ran thus:—"You may ask perhaps by what "means shall we seek redress? We answer, that "men in a state of civilized society are bound to seek "redress of their grievances from the laws, *as long* "*as any redress can be obtained by the laws.* But our "common master, whom we serve, whose law is a "law of liberty, and whose service is perfect freedom, "has taught us not to expect, to gather grapes from "thorns, nor figs from thistles. *We must have re-* "*dress from our own laws, and not from the laws of our* "*plunderers, enemies, and oppressors.* There is no "redress for a nation, circumstanced as we are, but "in a fair, free, and full representation of the people." Then followed the first resolution, which explained the nature of the representation thus required. After directing the general committee of the Society to meet daily for the purpose of watching the proceedings of

the parliament and government, this resolution provided, " that upon the first introduction of any bill " or motion inimical to the liberties of the people, " such as, for landing foreign troops in Great Britain " or Ireland, for suspending the Habeas Corpus Act, " for proclaiming martial law, or for preventing the " people from meeting in societies for constitutional " information, or any other innovation of a similar " nature, the committee should issue summonses " forthwith to call *a general convention of the people, for* " *the purpose of taking such measures into their con-* " *sideration.*"

At a meeting of the Corresponding Society on the 30th of January 1794, Hardy being present, a motion was made by Thelwall, and carried, " that there " should be a permanent *secret committee* of delegates, " who were to consider what measures were necessary " from time to time according to the measures which " might be taken in the House of Commons, and to " have a discretionary power of convoking the general " committee of Delegates." At the next weekly meeting, Hardy being present, the secret committee reported, " that being a *secret committee*, they had found " out that *it was dangerous;* therefore they applied to " the committee of Delegates to dissolve them, and give " them power to choose another committee in their " place, and that they *might not be compelled to name* " *the names of those persons that were to form the new* " *committee.*" This extraordinary proposal appears to have been carried without opposition.

On the 27th of March 1794, when the address and resolutions of the 20th of January preceding, whereof there had been printed about 8000, had been a couple

of months in circulation, the London Corresponding Society wrote, through Hardy, to the Constitutional Society, inquiring whether the latter Society concurred with them " in seeing *the necessity of a speedy* " *convention*, for the purpose," continued they, " of " obtaining, in *a constitutional and legal method*, a re- " dress of those grievances under which we at present " labour, and which can only be effectually removed " by a full and fair representation of the people of " Great Britain." They subjoined some resolutions, one of which was, " That it is the decided opinion of " this society, that, to secure ourselves from future " illegal and scandalous prosecutions, to prevent a " repetition of wicked and unjust sentences, and to " recall those wise and wholesome laws that have " been wrested from us, and of which scarcely a ves- " tige remains, *there ought to be immediately a conven-* " *tion of the people*, by delegates deputed for that pur- " pose from the different societies of the friends of " freedom." The Constitutional Society expressed their concurrence, and appointed a committee to confer with the committee of the Corresponding Society: and, on the recommendation of these two delegated bodies, a joint committee of co-operation was formed, of which the prisoners Moore, Thelwall, Baxter, Hodgson, Bonney, Tooke, Wardle, and Joyce were members, Joyce acting as secretary.

On the 28th of March, an address to the persons convicted of sedition in the matter of the Scotch Convention, was voted by the Constitutional Society, containing this paragraph: — " A full and fair representation of the " people of Great Britain we seek with all the ardour " of men and Britons; for the sake of which we are

" not only ready *to act with vigour* and unanimity, " but, we trust, *prepared also to suffer with constancy.*" This resource of a convention was one which the societies declared themselves driven to adopt in consequence of the utter hopelessness of obtaining any redress from parliament: yet in almost all these declarations, while expressly disclaiming the only remedy which the law and the constitution allow, and directly recommending the unlawful measure of a convention to overrule the legislature, they kept up the irreconcilable profession of limiting themselves to *legal and constitutional methods.*

The 14th of April 1794, was a remarkable day in the history of the Corresponding Society. On that day, a very large assembly of its members met in the open air, at Chalk Farm, in the neighbourhood of London, and, among other proceedings, passed some resolutions, of which the following are extracts:— " That the whole proceedings of the late British con- " vention of the people at Edinburgh are such as " claim our approbation and applause."—" That any " attempt to violate those yet remaining laws (which " were intended for the security of Englishmen " against the tyranny of courts and ministers, and " the corruption of dependent judges) by vesting in " such judge *a legislative or arbitrary power, such as* " *has lately been exercised by the Court of Justiciary in* " *Scotland*, ought to be considered as *dissolving en-* " *tirely the social compact between the English nation* " *and their governors*, and driving them to an imme- " diate appeal to that incontrovertible maxim of " eternal justice, that the safety of the people is the " supreme, and, in cases of necessity, the only, law."

— "That the committee of correspondence be di-
" rected to convey the approbation of this society to
" Archibald Hamilton Rowan, prisoner in the New-
" gate of the city of Dublin," (convicted of a seditious libel) and " to the Society of *United Irishmen*, in " Dublin, and *to exhort them to persevere in their ex-* " *ertions* to obtain *justice for* the people of *Ireland.*" While Richter, one of the prisoners, was reading some of these resolutions to the meeting, he stopped to make some observations of his own. Hardy, who stood below, looked up to him and said, " Read, sir, without comment."

On the 2d of May there was a dinner at the Crown and Anchor, of the Constitutional Society, with certain invited members of the Corresponding Society. One Groves, a witness on the trial, received his ticket, gratis, from Hardy, who, as well as Thelwall, Richter, Mr. Horne Tooke, and other active partisans, attended the dinner. The airs played there were " Ça Ira," the " Marseillois March," and other tunes then popular with the Parisian revolutionists; which excited an universal " din of approbation."

On the 12th of the same month of May, the career of the societies was stopped by the apprehension of Hardy and several of his associates upon a charge of high treason.

Evidence was given of many other acts, papers, and declarations, of a treasonable character, done or put forth by fellow-prisoners of Hardy, and by other members associated in the general design, — some of them more violent, perhaps, than any yet stated. For example, a conversation was proved between the prisoner Baxter and a witness named Gosling, in the

course of which, arming and drilling were strongly recommended by Baxter; and an opinion being thereupon expressed by the witness, that a reform in parliament might be had without blows, Baxter asked, *Was there any man in the society who believed a parliamentary reform was all they wanted?* For his own part, he did not wish the King, or any of his family, to lose their lives, but he thought *they might go to Hanover*. He said that the Committee of Correspondence and Co-operation were preparing an address to the army, with some strong resolutions: that *one Moore had been particularly active and successful in getting over the army:* that they had succeeded best with the old soldiers in Westminster: *and that if one third of the army were got over, the other two thirds would not act with spirit against them.*

This Baxter was not always even thus moderate. He was the circulator of a paper in the style of a play bill, announcing, "for the benefit of John Bull," a farce called "*La Guillotine*," *or* "*George's Head in a Basket*," with dramatis personæ and other additions, in the same taste.

Another paper, drafted by a delegate of the Corresponding Society, named Martin, who acted with Hardy and Thelwall in the preparation of the proceedings for the Chalk Farm meeting, concluded with this sentence: "Resolved, that it is the right and "the bounden duty of the people to punish all traitors "against the nation; and *that the following words are* "*not now a part of the oath of allegiance*, to wit, 'I "'declare that it is not lawful, upon any pretence, "'to take arms against the King.'"

One evening, toward the end of 1793, at a meeting

of Division No. 29, of the Corresponding Society, in Shire Lane near Temple Bar, Mr. Redhead Yorke, one of the members, addressed the persons present, acquainting them that he was going abroad, and hoped to return to London at the head of a French force, by Christmas or the beginning of January. He expressed his hope, that he should see them all ready to join him without shrinking, since *it was impossible to do any thing without some bloodshed;* and that *Mr. Pitt's and the King's heads would be upon Temple Bar.* This speech had a reception "*quite* "*unanimous:*" all rose and *shook hands with him* when he got up and left the room.

On the evening of the 14th of April 1794, the day of the great meeting at Chalk Farm, Thelwall was in the chair at a supper of one of the Divisions; and, *blowing off the head of a pot of porter*, said, "*This is* "*the way I would have all Kings served.*"

The Attorney General, in opening these various circumstances to the jury, as evidence to prove the treason of compassing the king's death, stated that the proofs, which it would be his duty to adduce, would sufficiently establish the fact of a conspiracy to depose the King, which, in point of law, is an overt act of compassing his death: and he argued that it could not be less an overt act of compassing the King's death for being included in the still wider design of subverting the entire monarchy and substituting a commonwealth, which was the real object aimed at under colour of "a full and fair representation of the people." If a conspiracy to depose the King is an overt act of compassing his death where the conspirators intend to supersede him by another king, it is equally so where they intend to supersede him by a republic. The Convention, contemplated by these conspirators, was intended to claim all civil and political authority; which authority it was to exercise, by altering the government in-

dependently of the legislature and of the statutes by which the King is sworn to govern. The conspiracy to assemble such a convention was a conspiracy to depose the King from his sovereign power: and the insufficiency of the force by which the object might be attempted could make no difference in the character of the object itself, which must be equally treasonable whether successful or unsuccessful. Nor would it make any difference, whether the first assembly to be convoked was to be itself a convention assuming all civil and political authority, or was only to devise the means of forming such a convention. Neither would the conspiracy be the less a treasonable one, for purposing to continue the name and office of king in the person of George the Third, if that continuance was intended to be coupled with a proviso that he should govern with a new kind of legislature, to be constituted by the Convention. A king, who should consent so to govern, would no longer be the lawful king: he would have been deposed from his character of king as established by law. But he *could not* so consent; for so to govern would be to violate his coronation oath: therefore, he must refuse, must resist, and, in consequence of resisting, his life must be in danger. In either case he would have been deposed: for the meeting of a convention, assuming all authority, must in itself have been, at least pro tempore, a deposition of every other power. But in this case the evidence went beyond that kind of incidental deposition of the king: it proved that his actual deposition was the direct and express object of appointing a committee to constitute this convention.

Beside the overt act of conspiring to depose the King by means of a convention, there were other overt acts of conspiracy to depose the king by other means: by endeavouring to introduce into this country, through the agency of affiliated societies, the same principles which had been set at work in France, and to follow them out to the same end. The doctrine put forward by the societies was that of "equal active citizenship," on which they sought to found a representative government. That was the principle upon which was formed the French constitution of 1791: a constitution preserving the office of king, and setting up a sort of royal democracy.

But in August 1792, that constitution was destroyed: and the transactions of the English societies, in and after the October succeeding that date, proved that, if not earlier, yet at least from October 1792, they meant to destroy the kingly office in England. They sought to advance this object by stimulating their members to arm: and various divisions did arm, and clandestinely practise the manual exercise.

The witnesses on behalf of the prosecution were then called, who proved, amidst a vast collection of other less material circumstances, the facts already stated.

The evidence for the prosecution did not close until the 1st of November, the fifth morning of the trial. Mr. Erskine then opened the defence to the jury, by an address, of which Mr. Tooke, in a manuscript note upon his own copy of Hardy's trial, says, "This speech will live for ever."

Mr. Erskine deprecated all speculation upon the *consequences* which might happen to follow from a prisoner's acts, and desired that, in a criminal procedure, his *intentions* alone should be considered: the allegation of the indictment being, that the acts charged were done *with intent* to depose the king. Moreover, the charge was, not simply of taking steps *to depose* the King, but of taking steps "with the intention *to bring him to death.*" The conspiracy to depose the King might be adduced as *evidence of the intention* to destroy his life, but never, as a "proposition of law, could constitute *the intention itself.*" He would maintain, first, that no overt act can amount to the treason of compassing the King's death, unless charged and proved to have been committed in fulfilment of a traitorous intention to destroy the King's *natural* life; secondly, that a conspiracy to levy war, or a conspiracy against the King's regal character or capacity, though admissible evidence of compassing the King's *death,* is no good overt act of such compassing, without proof of some force against *the king's person* exerted or contemplated; and that even such

exertion or contemplation of force, however clearly proved, is not itself the substantive treason of *compassing the King's death*, but only an overt act, or piece of evidence, from which a conclusion is to be drawn, whether that substantive treason of *compassing* have been committed or not. Thirdly, that the charge of compassing the King's death, as laid in an indictment for treason, *is not a conclusion of law* necessarily following from the proof of the overt act, *but is an averment of fact*, on which the jury are to draw the affirmative or negative conclusion for themselves. He said, that in the present case, as the treason of compassing was a merely constructive one, by the assimilation of a supposed intention of attacking the King's authority to an intention of attacking his natural life, — so the overt act of deposing was likewise a merely constructive one, by the assimilation of a plan for undermining monarchy, through changes that might be wrought in public opinion, to a plan for deposing the monarch by force. In times prior to the statute of treasons, (25 Edw. III.), to compass the life of *any* man was a felony: and under that state of the law, what amounted to compassing had been fully settled. "That rule," says Mr. Justice Foster, "has been laid aside as too rigorous in the case "of common persons; but in the case of the King, Queen, "and Prince, the statute of treasons has, with great propriety, "retained it in its full extent and vigour, and, in describing "the offence, has likewise retained the ancient mode of "expression." "All the words descriptive of the offence," observes the same writer, "are plainly borrowed from the "common law, and therefore must bear the same construction "they did at common law." "It follows," argued Mr. Erskine, "that nothing can be a compassing of the death of the King, "which would not, in ancient times, have been a felony in "the case of a subject." The design then, to be treasonable as a compassing of the King's death, must be against the King's *person*: no design against his *government* alone, no mere plan for deposing his authority in particular points of it, would amount to this treason, nor yet to an overt act from which this treason could be inferred. Unless when a jury should find that the attempt to depose was with an intent against the King's *natural existence*, it could be no overt act of this

kind of treason; of which such an intent is the very essence. There might be circumstances, certainly, under which a conspiracy, to depose the King and annihilate his regal capacity, would amount to satisfactory evidence of an intention to destroy his natural life; but this intention would not be a necessary consequence of law from the fact of such a conspiracy, but would be a matter for a jury to find or to negative, according to their own judgment upon the whole case before them: and, in order to find him guilty of that intent, it is not enough that they *believe* him so: they must have it *proved:* he must be guilty "*proveably.*" Nor is it enough, on a penal statute, that the act charged be brought within the *reason* and *mischief* of the law: it must be brought unequivocally within the very *letter.* Treason is not to be made out by construction, by cumulation, or by analogy. He then cited various legal authorities, as fortifying the argument, that in order to constitute this treason, an intent against the King's *natural existence* must be proved. He next proceeded to argue, upon the facts in evidence, that no such intent had been entertained by the prisoner Hardy, whose objects, doctrines, and declarations, he contended, had not gone beyond those of the Duke of Richmond, Mr. Burke, and other writers of confessedly constitutional character. If unjustifiable steps had been taken by the Scotch Convention, or by any other parties, who were connected with the prisoner, but were not by him authorized to take such steps, he ought not to be made criminally responsible for their excess of the authority committed to them. The Convention, which the prisoner was here charged with an overt act of treason in attempting to assemble, was not the Scotch Convention, but a Convention intended to have been convened in England: and there was nothing to show any treasonable object in this intended English Convention. He ridiculed the evidence respecting arms: attacked the credit of some of the witnesses: and concluded with a splendid appeal to the justice of the jury and the spirit of the British Constitution.

Many witnesses were then called for the prisoner. Those of them, who were members of the Correspond-

ing Society, declared that they had not concurred in any plan of obtaining, by any other than constitutional means, a reform in Parliament, and that they did not believe in the existence of any ulterior design. Several other witnesses gave the prisoner the character of a steady, peaceable, and well-meaning man. The evidence for the defence being finished on the 3d of November,

Mr. Gibbs (on the same day) addressed the jury for the prisoner, adopted the main argument used by Mr. Erskine, that, to constitute the treason alleged, there must be an intent against the natural life of the King. This prisoner entertained no such intent; but, finding that parliament would not attend to the petitions of those who desired its reform, had endeavoured to bring public opinion to act upon the legislature, through the medium of an intended Convention of Delegates. The few arms, about which some evidence had been given, were surely requisite for the *bonâ fide* purpose of self-defence, when Dr. Priestley's house at Birmingham, and the houses of others at Manchester and at Nottingham, had been attacked by mobs. It was ridiculous to talk of a plot for overturning a government with three dozen of pikes, sixty muskets, and three or four French knives. Moreover, the principal witnesses upon this part of the case were unworthy of credit. — The delegates to the Scotch Convention, with which the Crown officers had sought to connect this prisoner, were guilty of a misdemeanour only, and not of treason: indeed it was only for a misdemeanor that they were prosecuted. The intended Convention in England had no treasonable objects: the prisoner had used no concealment respecting them. His intention was,— like that of the Duke of Richmond, — to operate upon the legislature through the declared sense of the people.

The Solicitor General replied on the 3d and 4th of November: —

He declared his opinion that the bulk of the persons mixed

up in these transactions had been the mere dupes of leaders who professed lawful objects, but pursued unlawful ones. If the designs of these leaders had been lawful, the prisoner, who was one of them, would have called, as his witnesses, the acting men of the society, who knew its real objects, instead of producing people who had been entrusted with none of its business. The necessity of self-defence, here set up as an excuse for arming, was a mere fraudulent pretext. If the Society's views had been justifiable, there would have been no need for their secret committee, at the constitution of which the prisoner was present—himself certainly no dupe, since he regulated the whole correspondence of the association. The Solicitor General proceeded to state his view of the law of treason; contending that, as an attempt against the kingly power has the natural consequence of endangering the life of the King, the man who designs such an attempt is guilty of compassing the King's death. The King being the sole representative of the state, an attack upon the sovereign power of the state is necessarily an attack upon the person of the King. The law does not require, in order to convict a man of committing a criminal act in fulfilment of an intention, that the intention to commit that very act should have been preconceived specifically: if he does what leads as a general consequence to that criminal act, he is guilty in law of the intention to commit it: as where a man shoots at A, intending to kill him, but the shot misses A and kills B, whom the person shooting had no intent to kill, yet he is guilty of killing B with malice aforethought. In confirmation of this view, the Solicitor General cited various authorities, dwelling particularly on the trial of Blunt and Davis for high treason (1 *Howell's State Trials*): and controverted the construction put by Mr. Erskine on the quotation from Mr. Justice Foster. That the case of treason must be made out proveably, he would not deny; but that rule was not peculiar to an overt act of high treason: between the evidence of this and of any other crime, there was no difference, except that in treason there must be at least two witnesses, — either one to one overt act and another to another, of the same treason, or both to one overt act. He then entered upon the con-

sideration of the general character which must belong to a convention of the people, and argued the incompatibility of such a convention, with monarchy. Any design to alter the constitution, otherwise than by the legislature acting freely, was a design to depose the King from his royal authority, and a compassing of the King's death: and, that design being manifested by any act in pursuance of it, the parties to such design were guilty of high treason. A convention would have been an alteration of the constitution, an assumption of the sovereign power of the state. That the prisoners so intended it, was plain from their references to the proceedings of the Convention in France, and from many express passages in the proceedings and publications of the societies: and the mode in which they prosecuted that intention was by pamphlets and other papers, and speeches, vilifying the Constitution of England and inciting the people to throw it off.

Lord Chief Justice Eyre, after summing up the evidence on the 4th of November, told the jury in his direction to them on the 5th,

That it was not necessary in point of law to prove a compassing of the King's death, as a *conception existing* in the prisoner's mind *prior* to the conception of deposing the King. "The conspiracy to depose the King," he said, "is evidence of "compassing and imagining the death of the King, conclusive "in its nature: so conclusive, that it is become *a presumption* "*of law*, which is in truth nothing more than a necessary "and violent presumption of *fact*, admitting of no contradic-"tion. Who can doubt that the natural person of the King "is immediately attacked and attempted, by him who at-"tempts to depose him? Many, many hours were spent at "the bar in this discussion; but, on the part of the prisoner, "it was manifest that, after the discussion, the argument "broke down under the case, and it became impossible for "either of the gentlemen, to set himself distinctly to maintain "this proposition, that an honest man could fairly doubt "whether he who conspires to depose the King has com-"passed or imagined his death." — Having thus stated the law, the Lord Chief Justice pointed the attention of the jury

to the particular facts, from which they would have to draw their inference respecting the objects of the prisoner, and shortly noticed some of the principal arguments of counsel upon the details.

The interest excited in all parts of the country, and especially in the metropolis, by this trial, which had now lasted nine days, was intense, and almost universal. Among the higher and better-informed classes there were various opinions; some being persuaded that the safety of the Crown, and of the whole fabric whereof the Crown is the keystone, depended on a conviction: others maintaining that the prisoners had only sought constitutional ends by justifiable means; while a third party, who questioned the ends, and condemned the means, were yet disquieted by an apprehension lest the law of treason should be dangerously extended by construction.—Among the less-educated orders, there was less variety of sentiment. With them, an affair of this kind is one of feeling rather than of argument: they in general desire the acquittal of any prisoner, except where his offence has been attended with some cruel or disgusting circumstance: and it was natural, therefore, that where, in addition to the usual prejudice in favour of persons accused, there was a very strong political inflammation, the populace of London should be highly excited.

"Every evening," says Lord Eldon, in his Anecdote Book, "upon my leaving the Court, a signal was given that I was coming out, for a general hissing and hooting of the Attorney General. This went through the street in which the Court sat (the Old Bailey), from one end of it to the other, and was con-

tinued all the way down to Ludgate Hill and by Fleet Market."

He related to Mrs. Forster, and the Law Magazine of August 1838 gives the story a little more circumstantially, that at the close of one of the days of this long trial, as he was about to leave the Court, Mr. Garrow said to him, "Mr. Attorney, do not pass that "tall man at the end of the table." The man had a suspicious appearance, and had stationed himself for some time at the door with his hat pulled over his brows. "Why not pass him?" asked Mr. Law: "He has been here," replied Mr. Garrow, "during the whole trial, with his eyes constantly fixed on the Attorney General." "I will pass him," said Mr. Law. "And so will I," said Sir John Scott. This was opposed by the counsel and others round about, who added, that there was a mob collecting, and that they did not think the Attorney General's life would be safe. He answered, "I tell you, gentlemen, I will "not stay here; for, happen what may, the King's "Attorney General must not show a white feather." What followed, was thus related by him to Mrs. Forster:—

"I went and left them, but I will not say that I did not give a little look over my shoulder, at the man with the slouched hat, as I passed him; however, he did me no harm, and I proceeded for some time unmolested. The mob kept thickening around me, till I came to Fleet Street, one of the worst parts of London that I had to pass through, and the cries began to be rather threatening. 'Down with him,'— 'Now is the time, lads,'—'Do for him,'—and various others, horrible enough. So I stood up, and spoke as

loud as I could—'You may do for me if you like, but remember there will be another Attorney General before eight o'clock to-morrow morning; the King will not allow the trials to be stopped.' Upon this, one man shouted out, 'Say you so? you are right to tell us. Let's give him three cheers, lads.' And they actually cheered me, and I got safe to my own door. When I was waiting to be let in, I felt a little queerish at seeing close to me the identical man with the slouched hat; and I believe I gave him one or two rather suspicious looks, for he came forward and said, 'Sir John, you need not be afraid of me; 'every night since these trials commenced, I have 'seen you safe home, before I went to my own 'home, and I will continue to do so until they 'are over; good evening, sir.' I had never seen the man before. I afterwards found out who he was, (I had some trouble in doing so, for he did not make himself known,) and I took care he should feel my gratitude." This stranger's interest in Sir John Scott's safety is accounted for in the Law Magazine of August 1838, where it appears that Sir John Scott had once done an act of great kindness to the man's father.

"Erskine," says the Anecdote Book, "who was counsel for the defendants, was of course extremely popular. He was received with universal plaudits; and there was nothing to disturb his enjoyment of this contrast, or to soften my mortification, until, on one evening (the evening of the verdict), the multitude, which had thought proper to take his horses from his carriage, that they might draw him home, conceived among them such a fancy for a patriot's

horses, as not to return them, but to keep them for their own use and benefit."

Mr. Erskine behaved generously and gallantly throughout this excitement. When the people, with whom he was then the first favourite, were about to stop Sir John Scott, Mr. Erskine called out to them, "I will not go on without the Attorney-General." Lord Eldon, in relating to Mrs. Forster the violence of the mob, did not forget to mention his rival's good feeling. "Erskine," said he, "caused his carriage to "go slowly, till he saw me out of danger."

The first trial was now in its concluding stage. The witnesses, for the most part, had established the facts they were called to prove; but the extreme length and complication of the circumstances, and the fiercely disputed premises of law upon which the indictments were founded, left the whole question a difficult one, and rendered the result a matter of the utmost uncertainty, and of the deepest interest. The jury had, from the commencement of the trial, been kept each night under the watch of four officers, apart from all other persons, even from their own families; and it was, therefore, hardly possible to conjecture what impressions all, or any, of those upon whose decision this great issue was depending, had received, either from the evidence, or from the addresses of counsel. In this state of suspense, the public mind had remained for a period of nine days and eight nights; from the morning of Tuesday the 28th of October to the afternoon of Wednesday the 5th of November. Thus, when the jury, on the conclusion of the judge's address at half-past twelve of the last-mentioned day, retired to consider their

verdict — and during the whole time of their deliberation, which lasted for more than three hours — the most intense anxiety pervaded the place of trial, and spread itself throughout the metropolis. The following account of the result, extracted from the Law Magazine of August 1838, is there reported to have been given by Sir John Scott himself: —

" The jury retired to deliberate: upon their return their names were called over. I never shall forget that awful moment. ' Gentlemen of the jury,' said the Clerk of Arraigns, ' are you agreed in your verdict? What say you? Is Thomas Hardy guilty of the high treason of which he stands indicted, or is he not guilty?" — ' Not guilty,' in an audible tone, was the answer. It was received in Court silently, and without noise — all was still — but the shout of the people was heard down the whole street. The door of the jury box was opened for the jurymen to retire: the crowd separated for them, as the saviours of their country."

This failure of the prosecution, against the person first brought to trial, much aggravated the difficulties of the Law Officers with respect to the prisoners who remained. It was an anxious question which then presented itself, whether they should regard the verdict of this first jury as a conclusive sample of the opinion entertained by the generality of respectable persons in their rank of life, and desist, on this hint, from any further proceeding; or whether they should refer the acquittal of Hardy to some accidental feeling, prejudice, or misapprehension, in the breasts of those particular jurymen, or some of them, and take the sense of another jury upon the case of one or more

of the remaining prisoners. The latter course was resolved on. It was not perhaps a very hopeful, but it seems to have been a necessary, decision. If the Government themselves, and particularly the Law Officers, were still satisfied, after hearing all that could be urged for the first-tried defendant, that he and those combined with him were guilty of high treason, his fortune in escaping ought not to leave the country in danger from his confederates, so long as there appeared a reasonable ground to believe that a second jury would take a stricter view of their designs.

Accordingly, on Monday, the 17th of November, the Rev. John Horne Tooke was placed at the bar of the Old Bailey on his trial for high treason. The counsel, on both sides, were the same as on the trial of Hardy; with the addition, on the Crown's behalf, of the Hon. Spencer Perceval, afterwards First Minister of the Crown. This trial lasted six days: the evidence given, and the topics urged on both sides, were in general of the same character as in Hardy's case; and, on the Saturday evening, the jury, after an absence of only about eight minutes, returned a verdict of not guilty.

The violent temper of those times made it extremely difficult to fulfil the duty of conducting political prosecutions, with the requisite admixture of vigour and mildness. These qualities, however, Sir John Scott evinced in remarkable combination through the whole of the trials: although, as is well observed in the Law Magazine, "it required all "his tact and firmness to restrain the counsel for "the prisoners, Mr. Erskine, then rioting in the ex-

"uberance of success and animal spirits, from over-"leaping all the barriers of sober form." The very few and brief altercations which occurred between them are worthy of record, as specimens of the manner and character of two high-spirited and naturally courteous gentlemen, of whom the one, under the excitingly perilous circumstances of his client, was fairly pardonable for a little "brave disorder" — while the other, recollecting always the dignity of his office and charge, and the national importance of the issue raised by him, earned the difficult praise of repressing irregularity without raising irritation.

Mr. Erskine, in cross-examining a witness, named Alexander, assumed him to have stated more than he had really said. The Attorney-General, on the repetition of this irregularity, interposed for the protection of the witness, explained the particular in which Mr. Erskine had overstated the evidence, and added, —

I say *that* is not only not correct, but it is very far from correctness.

Mr. Erskine. — I am exceedingly glad to be corrected, and I shall esteem it no interruption whenever you do, because I am so used to this work that nothing can put me out.

Lord Chief Justice Eyre having here interposed a couple of questions, Mr. Erskine said, —

I am entitled to have the benefit of this gentleman's deportment: if your Lordship will just indulge me for one moment, —

Lord Chief Justice Eyre. — Give him fair play.

Mr. Erskine. — He has certainly had fair play: I wish *we* had as fair play; but that is not addressed to the Court.

Mr. Attorney-General. — But whom do you mean?

Mr. Erskine. — I say the prisoner has a right to fair play.

Mr. Garrow. — But you said it was not said to the Court.

Mr. Erskine. — But I am not to be called to order by the Bar.

The Attorney-General, who perceived that the momentary warmth of his opponent was already subsiding, forbore from any rejoinder; and Mr. Erskine then proceeded with his examination, avoiding the irregularity which had occasioned the Attorney-General's interruption.

A couple of hours afterwards, the Attorney-General was obliged to vindicate the prosecution a little more seriously. Mr. Garrow was examining a witness about the before-mentioned playbill, called "La Guillotine, or George's Head in a Basket:" when, upon an observation made by the Lord Chief Justice, Mr. Erskine exclaimed: —

The paper was fabricated by the spies who support the prosecution.

Mr. Attorney-General. — You shall not say that till you prove it.

Mr. Erskine. — I shall prove it.

Mr. Attorney-General. — Till you prove that, you ought not to say it: it is a charge that ought not to be made.

Lord Chief Justice Eyre. — If there is any point between you which should be heard, the appeal, to be sure, must be made to the Court.

Mr. Garrow. — I wish it was; we should save much time and trouble.

Lord Chief Justice Eyre. — A little indulgence, on both sides, would save much time and trouble.

Mr. Attorney-General. — When a paper is produced, which your Lordships hold to be legal evidence to be read, it must not, and shall not, be stated in this Court, unless it is proved, that the paper is fabricated by the spies who carry on the prosecution.

Lord Chief Justice Eyre. — I hope nothing of that kind

has been said, for it was an improper thing to be said; and if it dropt from any body, it was an inadvertent thing.

In a few minutes more there was another departure from the regular line of examination; and then, for the only time, the Attorney-General allowed a severe expression to escape him, for which, however, he immediately apologised. A witness having given some evidence respecting the sentiments originally entertained on the subject of reform by Mr. Pitt and the Duke of Richmond, Mr. Erskine said, —

I wish it to be understood I am no advocate for the conscience of the Duke of Richmond nor Mr. Pitt.

Lord Chief Justice Eyre. — It is certainly true; but this is rather too grave an occasion for such an observation.

Mr. Attorney-General. — It is not a proper occasion for this frippery.

Mr. Erskine. — I say that is not a proper expression.

Mr. Attorney-General. — I will repeat it.

Mr. Erskine. — You will not repeat it any where else.

Lord Chief Justice Eyre. — The gentlemen, I hope, will recollect that they are upon a solemn trial.

Mr. Erskine. — I think it is really hard upon me, upon this solemn trial, that I should be eternally assailed by these gentlemen, when I have the arduous task of extracting the truth from these witnesses.

Lord Chief Justice Eyre. — If any person were disposed (which I dare say no one is) to give you any interruption, it would be my duty to preserve order, and take care you should be permitted to go on in your business without interruption; but it is impossible the cause can go on, unless the gentlemen at the bar will a little understand one another, and by mutual forbearance assist one another; you are a little too apt to break out, and I think there has been a little inclination sometimes to observe more upon that than the occasion calls for.

Mr. Attorney-General. — As far as came from me, I am sorry for it.

Again, however, on the same day, Mr. Erskine overstepped the limit of regular examination, by addressing a witness named Sanderson with the question, —

What date have you taken, *good Mr. Spy?*

Witness. — I do not think upon such an occasion being a spy is any disgrace.

Lord Chief Justice Eyre. — These observations are more proper when you come to address the jury.

Mr. Attorney-General. — Really that is not a proper way to examine witnesses. Lord Holt held strong language to such a sort of address from a counsel, to a witness who avowed himself a spy.

Mr. Erskine. — I am sure I shall always pay that attention to the Court which is due from me; but I am not to be told by the Attorney-General how I am to examine a witness.

Mr. Attorney-General. — I thought you had not heard his Lordship.

Mr. Erskine. — I am much obliged to his Lordship for the admonition he gave me. I heard his Lordship, and I heard you, which I should not have heard.

The Attorney-General, though clearly in the right, yet, as Mr. Erskine had intimated his intention to desist, was content to let the heat thus evaporate.

After this, there was no other conflict between these leaders. The only approach to a dispute was on the next day but one, when, on an objection made by the Attorney-General to a question put for the prisoner, Mr. Erskine said, —

Are you afraid of the question?

Mr. Attorney-General. — I will not have the question put in that form; I am afraid of questions that ought not to be put.

Mr. Erskine. — Afraid of the question being put?

Mr. Attorney-General. — I am afraid of no question that ought to be put, but of questions that ought not to be put.

Mr. Erskine. — I don't understand you.

Mr. Attorney-General. — I think you would not have made the observation if you did.

Mr. Erskine. — I still less understand you now, and am surprised, I own.

Lord Chief Justice Eyre. — What is the question that you think there is any doubt about? Let us know what the question is, and the Court will give their assistance towards mediating.

The discussion was kept up no further.

The same command of temper was visible in the conduct of the prosecution against Mr. Tooke; although this prisoner, who took a good deal of his defence into his own hands, managing it with a great air of unconcern, and passing his snuff-box about the court, was sometimes disposed to be sarcastic upon the law officers of the Crown and upon the Bench itself. In reference to an attempt which had formerly been made to exclude him from his degree of Master of Arts at Cambridge, he asked the Bishop of Gloucester, Dr. Beadon, whom he called as a witness for the defence: —

Does your Lordship recollect ever any other person's degree being opposed? — I do not at present recollect any other.

Is not the degree of Master of Arts such a one as would be given to any creature that could answer to rational questions?

Lord Chief Justice Eyre. — For the honour of the University you will not pursue that, Mr. Tooke.

Mr. Tooke. — I beg your Lordship's pardon: it is of some consequence to me, and does not affect the honour of the University; if it did, I am too faithful a son of the University to put such a question; for I mean no joke upon that University.

Lord Chief Justice Eyre. — It is not put in terms that are quite so measured as you would, upon consideration, put it in.

The Attorney-General, in the cross examination of the Bishop, began thus: —

Mr. Attorney-General. — Do you know any thing of the proceedings of the Constitutional or the London Corresponding Societies for the last three years? — Nothing at all.

Mr. Tooke. — Is not that question almost as bad as my speaking of the Master's degree? And now we are even; because it must be as great a degree of insult to ask the Bishop of Gloucester about the Constitutional Society and Corresponding Society, as my speaking lightly of the qualification for a Master's degree.

Mr. Attorney-General. — I will not let this pass: — without rebuke from your Lordship, if I am wrong — and without informing this Court, that it is not to part, upon this occasion, with a laugh.

Lord Chief Justice Eyre. — It is impossible for me to say that the question was irregular; and there was nothing in the terms of it that conveyed that kind of objection which I felt to the other question; at the same time, undoubtedly, it is very evident that the Bishop of Gloucester could not possibly know any thing of these societies.

Mr. Attorney-General. — In a court of justice, I cannot take it upon my notions of what the Bishop of Gloucester does or does not know. What is evidence must come from the Bishop of Gloucester as well as from any other man.

In commencing his general reply upon the whole case, the Attorney-General made some allusion to his own feelings and his own responsibility: —

"I here declare," said he, "that not one step would I take in this prosecution repugnant to the dictates of my own judgment, exercised according to what my conscience prescribes to that judgment, not for all which this world has to give me. Gentlemen, why should I? You will allow me to say, after all that has passed, that I have no desire with respect to myself in this cause, but that my name should go down to posterity with credit. I cannot but remember *this* is an interest most dear to me. Upon no other account my name

will be transmitted to posterity:—with these proceedings it must be transmitted. That name, gentlemen, cannot go down to that posterity, without its being understood by posterity what have been my actions in this case. And when I am laid in my grave, after the interval of life that yet remains for me, my children, I hope and trust, will be able to say of their father, that he endeavoured to leave them an inheritance, by attempting to give them an example of public probity, dearer to them than any acquisition or any honour that this country could have given the living father to transmit to them."

"At this period," says the Law Magazine*, "Sir "John Scott shed tears; and, to the surprise of "the court, Mr. Solicitor-General was seen to weep "in sympathy with the emotion of his friend.— "'Just look at Mitford,' was the remark of a neigh- "bour to Horne Tooke: 'what on earth is he crying "for?'—'At the thought of the little inheritance,' "retorted Tooke, 'that poor Scott is likely to leave "his children.' Encouraged by the success of this "sally, and the scarcely suppressed merriment of "those within hearing, the accused soon contrived "to fasten a public interruption on his accuser." This happened as follows:—

The Attorney-General, speaking of the design to compel the King to govern against his coronation oath, said,—

"*He ought to lose his life,* and, I trust, would be willing to "lose his life, rather than to govern contrary to that corona- "tion oath."

Mr. Tooke.—What! is the Attorney-General talking treason? I should be unhappy to mistake you: did you say the King ought to lose his life if he took any other parliament?

* No. XLI. pp. 78, 79.

Mr. Attorney-General. — It is really difficult to decide for one's self, whether this interruption is, or is not, proper.

Mr. Tooke. — I ask pardon of the learned gentleman, and I promise I will not interrupt him again during the whole of his reply. I only wished to know whether, in prosecuting me for high treason, the Attorney-General intentionally said something far worse than any thing he has imputed to me.

Mr. Attorney-General. — I am very much obliged to the gentleman. I say this: that the King of Great Britain is bound, by his coronation oath, to govern according to the laws established in parliament, and the customs of the same; that he is bound by that coronation oath to resist every power that seeks to compel him to govern otherwise than according to those laws; that it must, therefore, be understood, that the King of Great Britain would resist such a power as that, because he would be acting only in the exercise of his sworn duty: and in resisting such a power as that he must inevitably lose his life.

Mr. Tooke, however, was not insensible to the fairness of the spirit in which the prosecution against him was conducted. The Attorney-General having mentioned certain dates as proved, Mr. Tooke said, —

What the Attorney-General states to be proved, I am sure he thinks is proved; but it is possible that he may err, and I think he does now, or else I do, greatly.

Mr. Attorney-General. — I desire to say, and I hope I do not do wrong when I tell you, once for all, that when I state that I have proved any thing, I mean to say no more than that I have offered evidence, the effect of which is for the consideration of the jury.

Mr. Tooke. — I hope I have not hinted or insinuated the smallest idea, when I think you have mis-stated any thing, but that it is the effect of error and nothing else.

Mr. Attorney-General. — I am always obliged to you when you correct me.

The Morning Post of the 15th of January 1838, relates, that a few weeks afterwards, "Lord Eldon

"met, in Westminster Hall, Mr. Horne Tooke, who "walked up to him and said, 'Let me avail myself of "'this opportunity to express my sense of your hu-"'mane and considerate conduct during the late "'trials.'"

The acquittal of Mr. Tooke, thus immediately following that of Hardy, made it manifest that the juries of England were not prepared to convict other prisoners of high treason upon evidence merely similar to that adduced in the prosecutions already tried; and as the proofs against Messrs. Bonney, Joyce, Holcroft, and Stewart Kyd, would have carried the case no farther than the point at which it had twice failed, the Law Officers thought proper to open an acquittal as to those four prisoners. In the instance of Thelwall, against whom there existed other evidence, the prosecution proceeded; but after a trial which lasted four days, the jury acquitted him. The prosecutions against the remaining prisoners were then discontinued.

The discretion of the Law Officers of the Crown, in charging the offence of these prisoners as high treason, rather than as a seditious misdemeanour, has been often questioned. The responsibility of the decision rests mainly on the Attorney-General of that day; and he never shrank from it. The following is his vindication of himself, as recorded in his Anecdote Book:—

"The trials in 1794, of Hardy, Tooke, &c. for high treason, at the Old Bailey, were the most important proceedings in which I was ever professionally engaged. As I was blamed by some, perhaps by many, for indicting them for high treason, instead of indict-

ing for misdemeanour and sedition only, I record here the reasons which led me to take the course I adopted, and to produce that great mass of evidence before the jury, which many thought perplexed them so much, that they were unable to draw the true inferences. When the societies, of which these individuals were members, were broken up by order of Government, and many of the members (among others, the individuals indicted and tried) were, together with all their papers, and particularly those respecting the proceedings of the different affiliated societies, seized, by warrants, on suspicion of high treason, *such of the judges as were Privy Councillors, and were present at the many and long examinations of the parties apprehended, at the reading of the papers seized, and at the examination of the witnesses, being called upon for their opinions, stated, that in their judgment the parties were guilty of high treason.* The warrants of commitment for trial treated them as parties committed on account of high treason. The cases, as treasonable cases, were the subject of communications to, and debates in, parliament. As Attorney-General, and public prosecutor, I did not think myself at liberty in the indictments to let down the character of the offence. The mass of evidence, in my judgment, was such as ought to go to the jury for their opinion, whether they were guilty or not guilty of TREASON. Unless the whole evidence was laid before the jury, it would have been impossible that the country could ever have been made fully acquainted with the danger to which it was exposed, if these persons, and the societies to which they belonged, had actually met in that national con-

vention, which the papers seized proved that they were about to hold, and which was to have superseded parliament itself; and it *appeared to me to be more essential to securing the public safety that the whole of their transactions should be published, than that any of these individuals should be convicted.* They, too, who were lawyers and judges, having stated their opinion that these were cases of high treason, I could not but be aware what blame would have been thrown upon the Law Officers of the Crown, if they had been indicted for misdemeanour, and the evidence had proved a case of high treason, which, proved, would have entitled them to an acquittal for the misdemeanour; and then the country would not have tolerated, and ought not to have tolerated, that, after such an acquittal, their lives should have been put in jeopardy by another indictment for high treason. It was true that a charge for misdemeanour might have been so conducted, as not to risk the danger of acquittal on the ground of guilt of a higher nature, viz. by giving no more of the evidence than just enough to sustain the charge of misdemeanour; but then the great object of satisfying the kingdom as to the real nature of the case could not possibly have been attained. — Fault was imputed in another way, viz. that the evidence might have been less largely given in support of the indictments for high treason, and so the probabilities of conviction have been rendered greater. But to this I had two objections. 1st, That by so proceeding, the great object, of satisfying the country and making them aware of their danger, could not have been attained: 2dly, (and this second reason I stated in the strongest terms, at consultations

with those who assisted me upon this great occasion, as deciding me entirely, when they pressed for a short case, as giving the best chance for conviction,) that it was a principle of mine, upon which I had ever acted, and ever would act, when, as Attorney-General, I was prosecuting for the public, and more especially in cases that affected life, that the jury impanelled to decide the question between the country and the prisoner should know every fact and circumstance that I knew, and that I never could sleep again if they convicted a man upon evidence before them, where I was left in a state of doubt whether they would have convicted if they had known what other evidence I could have laid before them. I therefore opened the case, and the evidence at large, in a speech of nine hours. The trial of Hardy, which came on first, lasted many days. It was said that it would have been better management if I had tried Horne Tooke first; but I had convinced myself that that would have been unfair. The judge, who summed up the evidence, after hearing both sides, had more doubt whether the case of high treason was made out, than he had when he attended the Privy Council. Erskine and Gibbs, the prisoner's counsel, ably took advantage, particularly the latter, of the prejudices against what is called constructive treason: the jury were fatigued and puzzled; and in the state in which they were, it cannot be surprising that they acquitted the accused. When a little time had enabled the public to judge coolly about the proceeding, the public mind seemed satisfied with the result—with the great information they derived from the evidence as to matters which so intimately

affected their security (information which led to the suppression of imminent danger), and with the moderation and temper in which the trials had been conducted."

From this account of his own opinions and motives, it will be seen that there is no foundation for the report which represents him as having advised and contended that the prosecution should be for the minor offence of sedition. "I have heard him say," observes Mr. Farrer, "that the Attorney-General "takes an oath of office which compels him to act "independently of the Cabinet, and that it is his duty "to resign rather than be a party to proceedings "which he does not approve." The Attorney-General thus appears to have taken the same view of the trials as the Minister himself, who, on the 16th of November 1795, in defending the Treasonable Practices' Bill, took occasion to observe, that he was sure the trials, and the evidence produced upon them, had had a strong effect upon the public, and that the exposition of that immense mass of matter, and the development of the real designs entertained by the Societies, had served to open the eyes of the unwary, to check the incautious, and to deter the timid.

That such results were likely to be the ultimate fruit of these trials was hardly considered at the time a sufficient compensation for their failure. The course pursued had, as Lord Eldon admits, been contrary to the opinion of many, whose judgment was, from the beginning, that the Crown should prosecute, not for high treason where failure was probable, but for seditious misdemeanour where conviction would have

been certain. They considered that a failure on a trial for treason would, by giving a temporary triumph to the disaffected, produce, for a while at least, the ill effect of weakening those very interests of monarchical government which it was the whole purpose of the prosecutions to confirm. And it must be admitted to them that if the charge had, in accordance with their view, been framed as for a seditious misdemeanour only, and the evidence confined, as Lord Eldon himself intimates that it might have been, within such limits as to have secured a conviction for that minor offence, there would still have been nothing to preclude a subsequent publication of that part of the evidence in the original depositions which had been spared at the trials: by which course the government would equally have conveyed all the material information to the public mind, would have had credit for forbearance in not aiming at the lives of the accused, and would have finally stood in the position of successful vindicators of the law and constitution.

Such are the arguments on both sides of this grave question: and if, at this day, the preponderance appear to be against the policy then pursued, we must remember that we are now looking at the subject after the event, and that the judgments, which decided in favour of that policy, were those of Mr. Pitt and of Lord Eldon.

CHAPTER XIII.

1795—1797.

SUSPENSION OF THE HABEAS CORPUS ACT CONTINUED: ATTORNEY-GENERAL'S SPEECH. — STATE OF PUBLIC FEELING AT THE MEETING OF PARLIAMENT IN OCTOBER 1795.—ATTEMPT ON THE KING'S LIFE. — TREASONABLE ATTEMPTS AND SEDITIOUS MEETINGS BILLS, PREPARED BY THE ATTORNEY-GENERAL: HIS SPEECH ON THE FORMER: BOTH ENACTED. — PROSECUTION OF MR. REEVES. — STORIES OF SMUGGLERS.— SERJEANT HILL.— LORD THURLOW. — A SEDITIOUS BOY. — LORD NELSON. — JAMES BOSWELL.

PARLIAMENT assembled for the dispatch of business on the 30th of December: and, on the 15th of January in the new year, 1795, the Attorney-General moved for leave to bring in a bill, continuing for a further term the act of the preceding session, by which the Habeas Corpus had, as to certain classes of cases, been suspended. This continuance of the suspension was strongly condemned by the Opposition, as unnecessary and unconstitutional. The Attorney-General, on the 23d of January, in following Mr. Lambton's opening speech upon the second reading, justified the measure at considerable length.

He contended that the result of the late trials by no means proved the bill now in question to be unnecessary. The juries, who acquitted the individual prisoners, might not perhaps differ from parliament in their view of the general conspiracy; and at all events this was a subject on which parliament was competent to decide for itself, independently of the sentiments of any jury. After vindicating the law

officers who had judged those cases proper to be submitted for trial, and the grand jury who had found the bills, he proceeded to observe, that a legal acquittal was not necessarily a moral one. He would put a case upon this subject. Suppose, upon a charge of treason, any gentleman of unblemished honour were to give evidence of an overt act, to the satisfaction of every man who heard him, still, if there was no other evidence, the prisoner must be acquitted; because the law says, there must be two witnesses. Here would be a case of a verdict of not guilty, in which every person must be satisfied of the real guilt of the person acquitted. There were cases even, in which the confession of guilt by the party accused could not legally be received against him in evidence. In such cases, though a jury might be bound by law to acquit the prisoner, could any man think that the verdict of not guilty was a proof of moral innocence? He would state to the House a most extraordinary fact, in corroboration of the argument he had just been maintaining. While he and his learned friend (Mr. Erskine) were contending at the trials about the meaning of a publication of one of the societies, that very society published another paper, avowing that their meaning in the former publication was exactly that which he had put upon it; but he could not, in point of law, produce the second paper to prove the meaning of the first, because the latter paper was written after the prisoner had been taken into custody. Here was a case in which no human being could doubt the meaning of the paper; but yet he was prevented by technical rules from proving it. "Let us, then," continued the Attorney-General, "preserve "the constitution in all its branches — let us preserve it in "parliament — let us preserve it before juries. Let us pre- "serve it, not by sacrificing the one branch to the other, but "by giving to each its due portion of respect." He then observed, that societies, whose object was to introduce the French system of government, were wholly irreconcileable with the government of England. These societies had never addressed the French Convention till after the deposition of the King of France; but when the King had been deposed,

then the French Convention was deemed worthy of a correspondence with the English Societies, who, from that time, made numerous communications to it. He read a variety of extracts from this correspondence, evincing identity of object on both sides of the Channel. He animadverted upon the mischievous writings of some authors then very popular with the revolutionary party, and censured the language of those members of the opposition, who applied the light and inadequate epithets of "idle and foolish" to the conduct of those who had adopted their scandalous doctrines, and had expressed a desire for a National Convention in England. While such opinions were in motion, was it not absolutely necessary that Government should be armed with extraordinary powers to resist them? The month of November 1792, in which was voted the address from the London Constitutional Society to the National Convention, was also the month in which that Convention passed its famous decree, offering to assist the subjects of every country against their governors.—After giving a general history of the proceedings of the revolutionary societies in England from that month of November 1792, to the meeting at Chalk Farm in 1794, he dwelt upon the extensive preparations of arms, manufactured all alike in so many parts of the kingdom at the same time, and observed that they could not be supposed to have come to such a resemblance by mere accident. On these grounds he must maintain the indispensable necessity of this bill: which bill, nevertheless, he should be so unwilling to continue for one hour beyond such necessity, that he would readily agree to a clause enabling parliament to repeal it even in the present session, if the exigency should so soon have ceased. With reference to what had fallen from Mr. Lambton, he said that as often as he saw a man of extensive property professing the sentiments which had been uttered by the last speaker, his thoughts recurred to the following passage in a letter from the editors of the Sheffield Patriot to the Constitutional Society: —

"Whenever you find a man, apprehensive that an attempt "at reform may produce confusion and the destruction of "property, ask him if he knows such a gentleman (naming

"one of great fortune and character in the neighbourhood, "who is an advocate for reform). He will say, yes. You may "then ask him, whether he supposes that such a man would "support a measure which had a tendency to destroy all pro- "perty, and consequently to ruin him, — and so forth." By this sort of sophism, gentlemen who really were anxious for the good of the country, were cited as examples to seduce uninformed men into all the wild and dangerous schemes of pretended reforms.

To this day, there are men of "great fortune and "character" who patronise such movements as those of 1794: and to this day, the fallacy, thus condemned by Sir John Scott, continues to be advanced by mischievous persons, and accepted by thoughtless ones. Yet the decoy is a palpable one. Let the "man of "great fortune and character," who favours the deprecated movement, be one of the most honest and well-meaning of mankind, — and what does his adhesion prove? Surely not that the movement involves no danger; but only that he is not aware of its involving any. And then, because some such well-meaning persons *are aware* of no danger, it is to be taken as proved that no danger can exist! But there is another class, also possessing "great fortune," and even a certain "character," who lend their countenance to revolutionary projects, with a thorough perception that if those projects should succeed, their own property and position would be destroyed: — are these men more entitled to the confidence of their country? Less still: since they mislead humbler men, with a thorough knowledge that they *are* misleading them. All indeed may not have quite the same motives for the delusion. Some lend themselves to it, from the mere lack of courage, to leave their party:

continuing to countenance evils which they fully comprehend, rather than quit a Club, or incur a taunt in Parliament or the press. These are the weaker folk: the wickeder are those who encourage mischievous movement, not with any expectation of its success, but, on the contrary, in full reliance that by the time it shall have served *their* personal ambition, it will have been put down by truer and braver men. They take the benefit of a double game: flourishing upon the popularity of their own professions, while they hug themselves in the safety of other men's principles. Such is the worth of the warranty which property gets from the presence of a few of its owners, honest or dishonest, in the ranks of revolution.

Repeated divisions were taken on this and on the subsequent stages of the bill, in the House of Commons. After some resistance in the House of Lords, where a provision was added for limiting its duration to the 1st of July 1795, it became law as the 35th of Geo. 3. c. 3.

This act answered its purpose while it lasted; but it had no sooner expired, than the dealers in agitation renewed their endeavours to excite discontent among the common people. The war against the French, into which the majority of the English nation had rushed with all imaginable eagerness, had disappointed the expectations of the sanguine; and on that disappointment the seditious societies were incessantly working. Vast meetings were held in the open air, at which several active members of the Corresponding Society attempted to distinguish themselves by the violence of their harangues. Others

mingled in private with the lower classes, and profited by the ignorance of the working people to fill them with the most injurious notions of the government and its objects. Among those disturbers there appear to have been some who, though British-born subjects, were in the actual employ of the French Republic. Their machinations were much facilitated by a scarcity from which the poor endured severe suffering.

Such was the state of circumstances and feelings among the lower orders, when Parliament assembled, on the 29th of October 1795. The King, who went in person to the House of Lords for the purpose of opening the session, was assailed, both in going and in returning, with loud expressions of displeasure from the unusually numerous crowd collected in St. James's Park, through which his road lay. Some stones were thrown at the state-coach; and one of the windows was perforated, apparently by a bullet from an air-gun. On this occasion, says Lord Eldon in his Anecdote Book, the attendant, who was "one of the great officers of state, started at the shot striking the window of the state-coach, and passing through it. 'Sit still, Sir,' said the King: 'let us not betray any fear of what may happen.' — In those times I have heard him say, that he might perhaps be the last King of England. He was certainly a person of great courage. When Hatfield shot at him at the play-house, and when Margaret Nicholson tried to assassinate him, he betrayed no fear. When, in the riots of 1780, his Privy Councillors hesitated what advice to give him, he said, he should act without their advice, and would order his horse to the door,

that he might go at the head of the troops in person, and give them orders to disperse the rioters by force."

The attack upon the person of the Sovereign, at the opening of the session, suggested the necessity of some special enactments for the better protection of the monarchy and the monarch. The government instructed the Attorney-General to prepare the necessary bills for that purpose. He performed this duty with so great dispatch, that the Treasonable Attempts Bill, whereof the first section, defining certain treasons, is now a permanent law, was read a first time in the House of Lords on the 6th of November: and on the 10th the Seditious Meetings Bill, now long since expired, was originated in the House of Commons.

The Treasonable Attempts Bill, after reciting the outrages offered to the King's person at the opening of the session, and the daily multitude of seditious pamphlets and speeches, went in substance to provide, that if any should compass the King's death or destruction, or any bodily harm, tending to his death or destruction, or tending to maim or wound him, or imprison or restrain his person, — or should compass to deprive or depose him from the Crown of this or any other of his dominions, or to levy war against him within this realm for the purpose of compelling a change in his councils or constraining or intimidating either house of parliament, — or should compass to move a foreign invasion of this or any other of his dominions, — and should express such compassings by publishing any printing or writing, or by any overt act: every such offender legally convicted should be deemed guilty of high treason. These

enactments were to be in force until the end of the next session after a demise of the Crown; but before that event occurred, the 57th Geo. 3. c. 6. rendered them perpetual. The Treasonable Attempts Bill then went on to make temporary provisions against seditious words, spoken, written, or printed: the utterers or publishers whereof were subjected by it, on a first conviction, to the punishment of a high misdemeanor, —and, on a second conviction, either to the same punishment, or to that of banishment, or of transportation, at the discretion of the court.

The Seditious Meetings Bill, now expired, forbade, except in certain specified cases, the assembling of more than fifty persons for the purpose, or on the pretext of petitioning or deliberating upon grievances, unless under certain safeguards thereby prescribed. It gave powers to magistrates for dispersing unlawful assemblies: it provided severe penalties against offenders; and it suppressed unlicensed places for political discussions or discourses, where money was charged for admission.

The announcement of these two measures brought out a burst of dissatisfaction among those adverse to the principles of the Government: the unpopularity of any such restraint, among the dangerous classes of the public, being always pretty nearly in proportion to the necessity for it. The discussions in the House of Commons, upon the Treasonable Attempts Bill which had originated in the Upper House, gave opportunities to the Opposition of making fresh animadversions upon the Attorney-General, for his exercise of the discretion constitutionally vested in his office. In the debate of the 15th of November, he vindicated

himself with his usual firmness and moderation: and showed the necessity of the proposed enactment, from the great multiplication of libels, published and circulated by the seditious societies. On the 30th, in answer to the speech of Mr. Erskine, who opposed the motion for going into committee on this bill,

The Attorney-General entered at large into the consideration of its enactments. He considered it as not extending the law of treason beyond the true intent of the statute of Edward III., but only as defining and explaining that statute, which had itself provided that in all cases of doubt upon its construction, recourse should be had to Parliament for a more definite exposition. Lord Hale had said that this statute included an imagination to *depose* the king; whereas Mr. Erskine had argued, that to levy war against the King was not treason, unless coupled with an intention to compass his death. From this opinion he himself, as a lawyer, must dissent; but at least there was the sort of doubt which the statute of Edward had prescribed that the legislature should solve. Persuaded as he was, by the unprecedented assemblages and libels of the time, that a design existed to subvert the government and constitution, he would not incur any merited charge of supineness. In addressing himself, not only to the possessors of land and wealth, but to those also who felt that their liberties were a valuable property, he would remind them that a revolution could never enrich the poorer classes, but would make the whole country "poor indeed." He believed that the provisions now proposed as to treason were no more than consonant with the old law of the land; but independently of any prior law, and of any connection with the societies, he would ask whether the recent attack on the Sovereign did not call upon the legislature for some clear enactment regarding this class of crimes? Proceeding to that part of the bill which dealt with seditious misdemeanor, he must remark that it was no innovation, to treat some kinds of misdemeanor as highly punishable. A great person, Lord Thurlow, whom he was bound to revere, and whose protection of him demanded,

and should ever have, his gratitude and esteem, had, when Attorney-General, prosecuted Mr. Horne Tooke for a libel, and had moved the Court that it should be pilloried: though the libel upon the record was not, like the modern publications, a libel on the government and constitution of the country, degrading to the most sacred and honourable characters, but merely a libel concerning the administration of the kingdom. The present bill, in subjecting certain misdemeanors to certain punishments, gave this advantage to the defendant, that it required, as in case of treason, two witnesses to convict him. And if it prescribed a heavier punishment on a second conviction, was there not good reason to mark a wilful and malicious repetition with a more signal penalty? He had done his utmost to repress the evil by the already existing laws; for, in the last two years, there had been more prosecutions for libels than in any twenty years before. But the offence had now swelled to a magnitude with which the existing laws were no longer adequate to cope: and, unless some further aid were given by Parliament for its suppression, the House would too late regret that they had not encountered it by a timely remedy.

The bill was read a third time on the 10th of December, when the Attorney-General again reverted to several of the topics of his former speeches. After two divisions, the bill passed on the same night: and it stands on the Statute Book as the 36th Geo. 3. c. 7.*

The Seditious Meetings Bill was opposed with a temper not less acrimonious: but in those discussions the Attorney-General appears to have taken no active part. It became a temporary law, as the 36th Geo. 3. c. 8.

The measures thus adopted by the Government, for the suppression of political disturbers, begot, among the friends of the movement party, a keen desire of retaliation: and an occasion speedily presented itself,

* Perpetual by 57 Geo. 3. c. 6.

in the instance of a pamphlet entitled Thoughts on the English Government, the work of John Reeves, Esq., a magistrate of Middlesex, and an active partizan of the Government, who was especially obnoxious to the seditious societies, as having been the principal organizer of the Association against republicans and levellers. In this pamphlet Mr. Reeves argued, that "with the exception of the advice and consent of the two Houses of Parliament, and the interposition of juries," the government of England is wholly monarchical: that "the monarch is the stock from which have sprung those goodly branches of the legislature, the Lords and Commons" — but that "they are still only branches, which may be lopped off, and the tree is a tree still: shorn indeed of its honours, but not like them, cast into the fire. The kingly government may go on, in all its functions, without Lords or Commons: it has heretofore done so for years together, and in our times it does so during every recess of parliament; but, without the King, his parliament is no more." The Opposition, who had been unable to discern any danger to the constitution in the publications of the seditious societies, were horror-struck by the theory of despotism, which they descried in these assertions of Mr. Reeves. The ministers, with the exception of Mr. Windham, acquiesced in a motion of Mr. Sheridan, made on the 23d, and amended on the 26th, of November 1795, which affirmed that the pamphlet was a scandalous and seditious libel, and a high breach of privilege.

The Attorney-General, however, observed, that juries sometimes differed in opinion from the House, and acquitted persons whose prosecution the House had directed. He de-

clined to give his opinion whether this work were a libel or not. He said that it was for the House to decide that question, and that, if ordered to prosecute, he would discharge his duty faithfully.

Mr. Sheridan's motion having been carried, with only two dissenting voices, a committee was appointed to ascertain the author: and it reported that the author was Mr. Reeves. Mr. Sheridan then proposed, that instead of directing Mr. Reeves to be prosecuted, the House should order the pamphlet to be burnt by the common hangman: which proposal he intimated his intention of following up, by a motion for an address to the Crown, praying that Mr. Reeves might be removed from any place of trust. Instead, however, of adopting the suggestions of Mr. Sheridan, the House directed the Attorney-General to prosecute. These debates extended through several evenings in the latter part of November and the first half of December. On the 20th of the following May, Mr. Reeves was brought to trial, and acquitted: the jury, however, expressing their opinion that the publication was a very improper one, though the motives of the author were not of the criminal nature laid in the indictment. This animadversion appears, from a note, 26 State Trials, p. 594., to have been forced by one of the jurymen upon the other eleven, as the price of his concurrence in the acquittal.

One the 19th of May, the day preceding this trial, Parliament had been dissolved. The Attorney-General's connection with Weobly now ceased, and he was returned to parliament for Boroughbridge in Yorkshire, with Sir Francis Burdett for his colleague.

The years 1796 and 1797, though fertile in government prosecutions, had not called forth any great

parliamentary exertion on the part of the Attorney-General. But the Anecdote Book contains some amusing recollections which belong to the period of his official service.

"When I was Solicitor or Attorney-General," says he, "we had this ingenious case of smuggling proved. A person at Dover smuggled 3000 pairs of French gloves. He sent all the right-hand gloves to London. They were seized and sold. Nobody would buy right-hand gloves, who had not the left-hand gloves. The smuggler therefore bought them for a mere trifle. Having purchased the right-hand gloves, he then sent the 3000 left-hand gloves to London. They were also seized, sold, and of course bought by him for a price next to nothing. Thus he became possessed of them, though contraband, according to law, and, as a smuggler would say, in an honest way."

"I prosecuted a ship at Bristol to condemnation for having on board smuggled goods to a great amount. George Rous, who was a good-natured friendly man, but violent in court, and particularly as counsel for smugglers, raved in this case, and swore that I had contrived to have these goods put on board, in order to condemn the ship, whilst the captain had gone ashore, to see a wife whom he tenderly loved, and his children whom he was extremely fond of, at the end of a very long voyage in which he had been absent from them. This was all coinage: but it was put a stop to by a sailor in court starting up and exclaiming, 'Well, that's a good one—that's a good fetch!—Why, my mistress and her children were aboard ship with our captain during the whole of the voyage!'"

"After Serjeant Hill ceased to attend the courts of justice as a pleading barrister, he answered cases, and many were laid before him for his opinion. His habit was to write his opinion and illustrate it by mentioning all the cases upon which it was founded, with a great deal of reasoning upon each case. With such a fund of information, others as well as myself, who attended in courts, frequently were enabled to argue cases most ably and powerfully, the merit, however, being the serjeant's. Upon thus being consulted, he looked for what he certainly ought to have had, a good fee. A case being laid before him for information, with a fee of one guinea, the opinion he wrote, which I saw, was, I think, in these words, (keeping the guinea,) 'I don't answer such a case as this for one guinea. Geo. Hill, Lin. Inn,'—adding year and day. The serjeant always conversed with me very freely. I met him upon our staircase after the long vacation, and he addressed me thus:—'My dear friend, you will be shocked to hear what a loss I have sustained since I saw you.' I expressed great concern that any thing should have happened which he had so much cause to lament. Oh, he said, he had never had so much cause of grief, or suffered such a calamity. Before I could express another word, he said, 'I have lost poor dear Mrs. Hill.' And, then pausing for some time, during which I felt greatly and painfully on his account, he at last broke silence, saying, 'I don't know though, that the loss *was* so great; for she had all her property, Mr. Attorney, to her separate use.'"

"Lord Thurlow, when Chancellor, called me into his room at Lincoln's Inn Hall, and, among other

things, asked me if I did not think that a wooden machine might be invented to draw bills and answers in Chancery. I told him that I should be glad if such a machine could be invented, as my stationer's copy of my pleadings generally cost me more than the fees paid me by the solicitors. Many years after this, and when he had ceased to be Chancellor, and I was Attorney-General, a bill was filed against his friend Mr. Macnamara, the conveyancer, and Lord Thurlow advised him to have the answer sent to me to be perused and settled. The solicitor brought me the answer. I read it. It was so wretchedly ill composed and drawn, that I told him that not a word of it would do:—that I had not time to draw an answer from beginning to end:—that he must get some gentleman to draw the answer from beginning to end who understood pleading, and then bring it to me to peruse. I went down to the House of Lords the same day to plead a cause at the bar there. Lord Thurlow was in the House and came to the bar to me, and said, 'So I understand you think my friend Mac's answer wo'n't do.'—'Do!' said I: 'my Lord, it wo'n't do at all: it must have been drawn by that wooden machine which you formerly told me might be invented to draw bills and answers.'—'That's very unlucky,' says Thurlow, 'and impudent too, if you had known the fact, that I drew the answer myself.'"

"In the troublesome times of sedition, between 1793 and 1797, among the various persons who were brought before the Secretary of State or the Privy Council to be examined, was a boy, I should think about twelve or thirteen years of age, who, though so

young, had his head full of politics, sedition, reform, and revolution, and was very lavish in the statement of all his opinions; and, in the course of such statement, laid on Mr. Pitt most unsparingly,—who was present, though the boy did not know that fact. Mr. Pitt said to him, 'Pray, my boy, did you ever see 'Mr. Pitt?—'See him! see him!' said the boy; 'no, no, I would not have these eyes sullied by look-'ing at such a fellow!'"

"When Lord Nelson first appeared at the levee at St. James's after losing his arm, his Majesty, acknowledging his great services, added, 'But your country 'has a claim for a bit more of you.'"

"Jemmy Boswell called upon me at my chambers in Lincoln's Inn, desiring to know what would be my definition of *Taste*. I told him I must decline informing him how I should define it;—because I knew he would publish what I said would be my definition of it, and I did not choose to subject my notion of it to public criticism. He continued, however, his importunities in frequent calls, and, in one, complained much that I would not give him my definition of taste, as he had that morning got Henry Dundas's (afterwards Lord Melville), Sir Archibald Macdonald's, and John Anstruther's definitions of taste.—'Well then,' I said, 'Boswell, we must have an end 'of this. Taste, according to my definition, is the 'judgment which Dundas, Macdonald, Anstruther, 'and you, manifested, when you determined to quit 'Scotland, and to come into the south. You may 'publish this if you please.'"

CHAPTER XIV.

1798, 1799.

TREASURERSHIP OF MIDDLE TEMPLE. — MEASURES AGAINST DISAFFECTION. — PROSECUTION OF O'COIGLEY AND OTHERS. — PUNISHMENTS FOR POLITICAL OFFENCES. — ATTORNEY-GENERAL'S ILLNESS. — PROSECUTION OF GILBERT WAKEFIELD. — AWKWARD SQUAD. — TREASONABLE AND SEDITIOUS PRACTICES BILL. — SERVICES OF SIR JOHN SCOTT IN THE HOUSE OF COMMONS: HIS DEMEANOUR TOWARD MR. PITT. — VACANCY IN THE CHIEF JUSTICESHIP OF THE COMMON PLEAS. — SIR J. SCOTT'S EMOLUMENTS AT THE BAR. — ANECDOTES OF LAWYERS. — LORD NORTHINGTON. — T. COWPER. — LORD MANSFIELD. — SIR FLETCHER NORTON. — SERJT. DAVY. — LORD C. B. MACDONALD AND BARON GRAHAM. — JUDGE WILLES. — MR. DUNNING. — LORD NORBURY, &c. &c.

FROM the latter part of Michaelmas term, 1797, to the corresponding period in 1798, Sir John Scott served the office of Treasurer, that is, Principal, of the Society of the Middle Temple. The devolution of this annual honour is determined by election, which usually falls upon each Master of the Bench in the order of his seniority there. During his year, the Treasurer has a potential voice in directing the financial and other affairs of the society, and filling up any vacancies that may happen in its patronage.

On the 4th of April 1798, the Attorney-General introduced the bill for preventing the publication of newspapers "by persons not known." After two discussions, which were not very interesting nor very keen, it passed into law, as the statute of the 38th Geo. 3. c. 78.

A message from the Crown was delivered, on the

20th of April, to both Houses of Parliament, informing them of the preparations which the enemy were making for the invasion of England, and recommending the consideration of measures for defeating the machinations of disaffected persons in this country. Upon these grounds another bill was passed, for the suspension of the Habeas Corpus till the 1st day of the following February.

It was in the spring of 1798 that a prosecution for high treason was instituted against the Rev. James O'Coigley, Mr. Arthur O'Connor, John Binns, and others, which was tried at Maidstone on the 21st and 22d days of May. Mr. Gurney, who defended Binns, made it one of his topics with the jury, that the Attorney General had always failed in his prosecutions for high treason.

"The Attorney General," said he, "in his opening, told you, with a seriousness and solemnity well becoming the occasion, that he should make out such a case against the prisoners at the bar, that he thought it was not within the compass of possibility for them to give such an answer to it as to entitle them to a verdict of acquittal. Gentlemen, that language may be somewhat new to you, but it is not new to me. I have heard the same kind of language from the same learned gentleman, delivered in the same solemn manner, more than once, or twice, or thrice, or even four times; but I never yet knew that jury, in a case of high treason, who, at the conclusion of the cause, coincided with him in judgment."

In point of fact, there had been five prior prosecutions for high treason by Sir John Scott, all of which had failed. The first, second, and third, were those against Hardy, Tooke, and Thelwall: the fourth was against William Stone: and the fifth against

Robert Thomas Crossfield. However, on the present, which was the sixth occasion, one of the prisoners, O'Coigley, was convicted: the rest, among whom was Mr. Gurney's client, escaped.

In the report of this case, 27 Howell's State Trials, 120., there occurs another example of Sir John Scott's good temper and forbearance. Mr. Fergusson, then a very young man, who was counsel for one of the prisoners, interrupted the Attorney General's reply with the uncivil expression, "This is a gross mis-"statement of this letter." The Attorney General's only notice of this impropriety was, "I excuse Mr. "Fergusson; because, when I had the good fortune "to be as young as he is, I was as impatient."

Soon after the Meeting of Parliament in the following November, a bill was introduced for still further continuing the suspension of the Habeas Corpus till May 1799. The few members who at that time constituted the actual Opposition, (for Mr. Fox and his immediate adherents had systematically discontinued, or, as they termed it, seceded from, all attendance in the House of Commons,) objected to the second reading of this bill, and complained of the hardships now inflicted on persons imprisoned for political offences.

The Attorney General, in supporting the measure, acquainted the House, that in consequence of some complaints, which had been put forth on another occasion respecting the severity of the punishments inflicted for libel, and which seriously reflected on the Court of King's Bench, he had been led to trace the history of its proceedings upon this subject: and it would be found, he said, from a comparison of the sentences passed by that Court during the last six years, with those of any other period since the Revolution, that the present judges, without neglecting their duty, had consider-

ably softened the character of punishment in general, and particularly of punishment for libel. Formerly, the course had been for the Attorney General to prescribe the punishments of persons brought up for judgment; but he himself had followed the practice of a distinguished lawyer whom he revered and loved; he meant Lord Thurlow; the first Attorney General who disused the immemorial practice of directing the sentence: and if that disuse had not been the *sole* cause of the modern mitigation in the punishment of libel, much lenity had undoubtedly followed upon the change. Sir John Scott then observed upon the increased efforts, which in late times had been made to propagate sedition, and bring into contempt the religious, political, and moral institutions of the country, and every individual who held a conspicuous position in the administration of the law or of the government. He concluded by adverting to the particular cases in which severity had been imputed, and showed the exaggeration and even falsehood of the complaints, and the malignity and pertinacious repetition of the offences.

The discussion on the Suspension Bill was renewed on the motion for going into committee: the Attorney General again disproved the imputed oppression and cruelty: and after a speech and protest in the House of Lords from Lord Holland, who seems to have been the only active opponent of the measure among the Peers, it was passed through the legislature in the beginning of the new year.

Mr. Pensam used to relate an incident of this year, which, though unimportant in itself, deserves to be mentioned as illustrating the kindness of Sir John Scott's disposition. He was summoned as Attorney General to attend a council held in 1798 at Weymouth, where George the Third was passing the autumn. The then clerk of the council was Mr. Fawkener. The Attorney General came down in a chaise with Mr. James

Holdship, his clerk: who was not, as a barrister's clerk often is, a mere servant, but a superior and confidential person: and Mr. Fawkener travelled in another chaise with his servant, who had been a soldier under his command in the Guards. Fawkener proposed to change partners, by joining Sir John Scott in one chaise, and putting his own servant with Holdship in the other. The Attorney General hesitated. Fawkener apologised for having made a proposal which he feared was not agreeable. "Why, "Fawkener," said the Attorney General, "I will tell "you. There is not a gentleman in England whose "society would give me more gratification than "yours. But Holdship has been with me eight and "twenty years: I have the greatest regard for him; "he knows all my business and books, and I can "hardly tell how I should go on if any thing hap- "pened to him. If I were to put him in a chaise "with a servant, he might think it a slight: and *that* "I would not inflict on him, even for the pleasure of "travelling with you." Fawkener again apologised, and admitted the force and kindness of the reason assigned. However it turned out at last, that Mr. Holdship, on hearing of the proposal, was well pleased with it: perhaps as not disliking to travel with a servant who might pass for his own. So next morning the two chaises started according to the suggested arrangement, — The Attorney General and Mr. Fawkener travelling in one, and Holdship with Mr. Fawkener's servant in the other.

It appears, from a few lines of Sir John Scott's writing, in a memorandum book, enumerating certain items of his property, that about the beginning of

the year 1799 he laboured under some severe indisposition:

"9th January 1799. I have set down these particulars. This little book may be of use to my family, before another year commences. The complaint in my breast it may please God to make the occasion of previously removing me. His holy will be done!"

This year was a fruitful one in political prosecutions. The most remarkable of them was the charge against the Rev. Gilbert Wakefield, who was tried in the Court of King's Bench on the 21st of February, for a seditious pamphlet containing a farrago of monstrous calumnies against the government and institutions of the country. The following are samples of this libel:

"The established conduct of these ministers constitutes an indubitable proof of their ill faith," &c.—"They have occasioned a devastation of the human species, infinitely tremendous, beyond the most merciless tyrants of ancient or modern times: the death of a fellow-creature is no more to them than the fall of an autumnal leaf in the pathless desert: land and sea is covered with the carcasses of their slain: they have engendered sham plots, false alarms, and visionary assassinations, for the purposes of deluding the unwary, and to establish their own power by a military despotism, in due time, over England, like that which now tramples bleeding Ireland to the earth," &c. &c.—"When I see religion employed, as a state engine of despotism and murder, by a set of men who are worse than heathens and infidels in their lives,—when I observe these and other enormities, which the time would fail me to enumerate, committed without scruple and without remorse, to maintain, forsooth, a degenerate constitution of ideal excellence and political depravity, I revolt at such an audacious imposition, and pity an understanding that can be duped by such despicable artifice."

Mr. Wakefield, who had acquired some celebrity as a classical scholar, seemed on his trial to be under the dominion of a political frenzy which nothing could check. He conducted his own defence, in a strain of unmeasured abuse against the Attorney General and others, interlarding his invective with classical and theological allusions, very much more copious than apposite.

He declared that "the very appointment of Attorney General has been esteemed essentially destructive of all honour and integrity, by those who have observed the uniform conduct of those law officers in succession." — "Be my notions innocent," pursued he, "or be they dangerous, they are but the visions of a peaceful and retired scholar, revealed to enlightened and speculative men. In short (which is my real crime) I look on Mr. Fox as the angel of redemption, and on Mr. Pitt as the demon of destruction."

"Aristotle, in his book on Politics, makes no secret of a predilection for republican government in competition with monarchical: not apprehensive that Alexander, like the unbookish bigots who are molesting me, would take offence at the speculations of his preceptor: nor have I read in the monuments of attic genius, that the Macedonian Attorney General filed an information of scurrility and lies against the philosopher of Stagira."

The Attorney General's reply consisted only of a few words. Acknowledging the right of every man to canvass the conduct of Ministers, he could not admit Mr. Wakefield's title to hold them up as murderers and robbers, or to shower abuse upon the Monarchy, the Nobility, the Church, and the House of Commons.

"If, gentlemen," concluded he, "you see the question in the light in which I see it, as I believe you do, I should think that I degraded myself and insulted you, by offering to make any reply to what has fallen from the Defendant:

and if you do not see it in this light, you must say that Mr. Gilbert Wakefield lives in this country under one law, and all the rest of his Majesty's subjects under another."

Lord Kenyon, who tried the case, said, in summing up,

"I shall leave to him" (the defendant) "in the moment of calm reflection, if ever that moment arrive, whether any thing that has passed has been of such a nature as to call for that torrent of abuse with which he has overwhelmed the Attorney General."

The learned Judge then pronounced a vindication and high eulogy of Sir John Scott: and, by way perhaps of counterpoise to the Reverend defendant's show of learning, concluded thus: —

"——— ingenuas didicisse fideliter artes
Emollit mores,"

is an expression which has often been used; but the experience of this case has shown that it is not always correct.

The defendant was found guilty, and sentenced to two years' imprisonment.

Not content with serving the Crown in his civil capacity, Sir John Scott had thought proper to evince his loyalty in a military character also; but, according to his own account, the sword became him by no means so well as the gown. He records his deficiency in the following passage of his Anecdote Book: —

"During the long war I became one of the Lincoln's Inn Volunteers, Lord Ellenborough at the same time being one of that corps. It happened, unfortunately for the military character of both of us, that we were *turned out of the awkward squadron* for awkwardness. I think Ellenborough was more

awkward than I was, but others thought that it was difficult to determine which of us was the worst." He told Mrs. Forster that his brother William did better, and actually commanded a corps.

A report from a Committee of Secrecy, appointed by the House of Commons to enquire into the proceedings of persons and societies engaged in treasonable conspiracy, was presented in March 1799 by Mr. Secretary Dundas, and formed the basis of a motion, made by Mr. Pitt on the 19th of April, for leave to introduce two bills, one of which was to be a temporary act for the suspension of the Habeas Corpus till March 1800, and the other a permanent one for the more effectual suppression of treasonable and seditious societies and practices.

Mr. Tierney opposed both measures: he regarded the existing laws as fully adequate to the objects professed: and he argued that the true way of quieting the discontented would be to concede a reform in Parliament.

Sir John Scott assured him, that those men, however they might dislike the principles of the law officers, would have just as little respect for any of Mr. Tierney's own theories, that should stop short of universal representation, and the other extreme points of their political creed. They would consider the honourable gentleman as doing nothing, unless he would agree to the annihilation of monarchy, the subversion of aristocracy, and the confusion of property. Unless he would agree to a scheme which would make every rich man poor, and no poor man rich, he was doing nothing. It was true, as had been observed, that in the rebellions of 1715 and 1745, the mere suspension of the Habeas Corpus had been found sufficient. But in those times the contention was which of two rival families should possess the throne of these realms: the contention in the present day was to put the throne upon a wholly new foundation, and reduce the other branches of the legislature to nothing. He possessed, as

Attorney General, a mass of papers, which he should be ashamed for his country if he were obliged to exhibit as the produce of its press. When the Constitutional Society assumed a new character, and incorporated with itself the Corresponding Society, whose affiliated branches had debauched half the great towns in the kingdom, the proceedings of these bodies had been such as had warranted indictments for treason. But the bodies implicated in the evidence, now possessed by the House, were so numerous and so widely spread, that proceedings under the present law, which could only be by way of still further indictments for treason, would be practically out of the question. The better course, therefore, was to dissolve the societies by a new enactment, and thus prevent the necessity of extreme rigour. The second of the two bills would effect that object, at the same time that it would leave free all meetings for constitutional purposes. Another ground for the proposed legislation was, that the existing law was baffled by the secrecy of the illegal meetings, and by the oath which bound the members to withhold all evidence against each other. It was not denied that the object of the societies was to extend the influence of French principles: and the great desideratum, therefore, was the total dissolution of them.

The bill for the suppression of treasonable and seditious societies and practices became a permanent law as the 39th Geo. 3. c. 79. The bill for the suspension of the Habeas Corpus was passed, and further renewed in subsequent sessions.

It appears to have been in the debate of the 31st of May 1799, respecting the claims of Mr. Palmer upon the Post-Office, that Sir John Scott made his last speech in the House of Commons. He opposed those claims.

The next month completed his sixteenth year of parliamentary service. During almost eleven sessions of that period, he had been a law officer of the

Crown. His speaking had been chiefly upon legal subjects: but from the quickness with which he gathered information upon business of every description, and the facility with which he delivered himself, his aid had been sometimes put in requisition upon matters not in his immediate province. In one of his latest conversations he told Mr. Farrer, "Mr. Pitt has sent for me on the morning of a day "on which a debate was to come on, and said to me, "'Attorney-General, you must speak on such a one's "'motion to night.' Upon my representing that I "was utterly ignorant upon the subject, and could "not possibly be prepared to speak, he would say, "'Sit down, and I will soon give you sufficient in-"'formation.' Accordingly, in half an hour, he "would give me almost all that was worth knowing, "in a clear, concise statement: and would conclude "by saying, 'There, now you are quite as equal to "'debate the subject as I am. You must follow "'Mr. So-and-so in the debate.'"

Mr. Wilberforce has left behind him a gratifying testimonial to the independence of character evinced by Sir John Scott during his progress through the House of Commons.

"Sir John Scott used to be a great deal at my house. I saw much of him then, and it is no more than his due to say, that, when he was Solicitor and Attorney General under Pitt, he never fawned and flattered as some did, but always assumed the tone and station of a man who was conscious that he must show he respects himself, if he wishes to be respected by others."—*Life of Wilberforce*, vol. v. p. 214.

The policy pursued by him, as Attorney General, in the prosecution of libel and sedition, has been

censured by some as too stern and sweeping; but the circumstances of those times required, and therefore justified, a strictness, which, in a calmer season, would have been blameable, because unnecessary. It is more easy than fair, when the danger has been surmounted, to say that a different conduct would have effected the same deliverance.

His lady's brother had been married in the preceding March. The passages subjoined refer to this event:—

Sir John Scott to the Rev. Matthew Surtees. —(Extract.)

"Dear Mat. Westminster Hall, Thursday, (6th June, 1799).

"I have at present an interval of time between two causes, which I am devoting to the purpose of expressing the warmest and most affectionate wishes (for myself and on behalf of your sister), that Mrs. S. and you may enjoy all the 'fausta et felicia' of life. Nobody more sincerely and anxiously feels those wishes than we do. Pray let us hear from you occasionally, and I hope time will bring us acquainted with our sister, of whom I hear what I like to hear, from those whom we lawyers should speak of as witnesses rather more disinterested, than the gentleman to whom I address myself can be. I have great pleasure in telling you that we are all very well: better than all of us have been, for some years, at the same time. We had a most glorious exhibition here on the King's birthday in the review of the volunteer corps, which furnished much the most magnificent spectacle I have ever seen. As a non-effective in an awkward squadron, I had the modesty not to show myself in arms, though I have military character enough to attend the drill occasionally in a more private scene. Your friend Major Sir W. Scott's corps, not having yet been bold enough to attempt the strong measure of firing, were also absent. I am likely to remain some time longer in the miseries of my office, unless I am turned out, all my superiors being in deplorably good health. We have very good news from the Austrians and Suwarrow,

in an extraordinary Gazette this morning. When are we to have peace again? You divines, I doubt, can't solve all the difficulties, which the horrid state of events, permitted through the world, presents to a thinking mind. With kindest regards to Mrs. S., believe me,

"Dear Mat,

"Affectionately yours,

"J. SCOTT."

When this letter was written, there appeared no glimpse of promotion; but in the very next month, the Chief Justiceship of the Common Pleas became vacant. Sir James Eyre, by whose death on the 8th of July this opening was made, had been successively Recorder of London, a Puisne Baron of the Exchequer, Chief Baron of the same Court, and Chief Justice of the Common Pleas. "He told me," says Lord Eldon in his Anecdote Book, "that he once asked Wilkes why he so unmercifully and so constantly abused him in all his speeches to the livery of London, where Eyre was Recorder, saying at the same time, that in private he always spoke of him as if he had a regard for him. 'So I have,' said Wilkes, 'and it is for that reason I abuse you in public: I wish to have you promoted to a Judgeship.'"

The emoluments of Sir John Scott at the Bar have been overrated. His early fee-books are not extant; but those of later date remain, from the beginning of 1785 to 1799, when he quitted the Bar for the Bench.

In the fee-book of 1785, his total receipts, after the deduction of some fees returned, are set down at 5766 guineas. He appears to have usually gone only a part of the Spring Circuit, of which this is the entry in 1785:

20 March to 4 April, Circuit, 141 guineas, 148*l.* 1*s.*
The Summer Circuit is less accurately noted, thus,

"Circuit, (say *about*, for 'tis conjecture) 420*l.*"

In the account of 1786, the sum received on the Spring Circuit from the 23d of March to the 12th of April is set down at 173 guineas, beside two or three fees not then paid, of which the amount is not stated. The sum received on the Summer Circuit, from the 6th of August, is entered as 480 guineas: and the total receipt of the year, after deduction of returned fees, is summed up at 6833*l.* 7*s.*: which 7*s.* should probably be 8*s.*, making 6508 guineas. In the account of 1787, his absence from London for the Spring Circuit is noted as having been from the 24th of March to the 9th of April: and his receipts are set down at 145 guineas, exclusive of something not then paid. The record for the Summer Circuit begins on the 27th of July: and the entry of fees stands thus: —

Newcastle -	58 guineas,	60*l.* 18*s.*
Carlisle -	99 „	103*l.* 19*s.*
Appleby -	10 „	10*l.* 10*s.*
Lancaster -	184 „	193*l.* 4*s.*
Durham		
Chancellor's fee -		- 100*l.*
Fees -	-	- 21*l.*

The total for the year 1787 is set down, after deduction of fees returned, at 7600*l.* 7*s.*: which 7*s.* probably ought to be 19*s.*, making 7239 guineas. Such variances between the computations by pounds and by guineas are frequent in these books, owing probably to miscastings of the shillings in so great a number of pages as are contained in the day-book of

each year. In 1788, his absence from London for the Spring Circuit is entered as from the 16th of March to the 5th of April: and his receipts as 179 guineas, exclusive of his salary and fees as Chancellor of Durham, which were 100*l.* and 17*l.* The Summer Circuit of the same year, from the 17th of July, is noted thus:—

	Guineas.	£	s.	
Newcastle -	57	59	7	(should probably be 17*s.*)
Carlisle -	109	114	9	
Appleby -	30	31	10	
Lancaster -	159	166	19	
Durham -	-	130	0	

The total of the year, after deduction of returned fees, is summed up at 8419*l.* 14*s.*

This Summer Circuit was his last: for in the June immediately preceding it, he had been made Solicitor General, after which the usage of the profession would not have permitted him to go his circuit, except, as he did, for a single time, that he might fulfil his retainers. For several years, however, he continued, in the summer and sometimes in the spring also, to discharge his duties and receive his fees as Chancellor of Durham. The total receipt of the year 1789 (the fees of Solicitor General being included) is summed up at 9559*l.* 10*s.*, clear of some deductions for returned fees.* The respective incomes of the succeeding years, after a deduction, in each year except 1794, for fees returned, appear in his books as follows:—For 1790, 9684*l.* 15*s.*: for 1791, 10,213*l.* 13*s.* 6*d.*: for 1792,

* These figures show that he underrated his probable receipts, when, shortly after his appointment in 1788, he told the King that his income would be diminished by it. Chap. IX.

9080*l.* 9*s.*: in 1793, when he had become Attorney General, 10,330*l.* 1*s.* 4*d.*: in 1794, 11,592*l.*: in 1795, 11,149*l.* 15*s.* 4*d.*: in 1796, the most productive year of all, 12,140*l.* 15*s.* 8*d.*: in 1797, 10,861*l.* 5*s.* 6*d.*: and in 1798, the last entire year of his practice at the Bar, 10,557*l.* 17*s.*

The following professional reminiscences and traditions had been stored up by Sir John Scott, during the long practice which he was now to quit: and, as they are not connected with his personal history, nor assignable to any particular subjects or dates, they may perhaps be most conveniently inserted here, at the conclusion of that period of his life during which they were collected. All of these, except the two at the end of the present chapter, are from the Anecdote Book:—

"When Sir Robert Henley was keeper of the Great Seal, and presided in the House of Lords as Lord Keeper, he could not enter into debate as a Chancellor (being a Peer) does, and, therefore, when there was an appeal from his judgments in the Court of Chancery, and the law Lords then in the House moved to *reverse* his judgments, which professional tradition represents them to have done frequently, when professional opinions of lawyers, not members of the House, were confidently stated as *approving* those judgments, the Lord Keeper could not state the grounds of his opinions given in judgment, and support his decisions. He was frequently much out of temper with the proceedings in which his opinions were reversed, when he thought it impossible to maintain that they were wrong. In the famous case of Drury and Drury, the Bar of the time when his

judgment was given, and all subsequent times, held his judgment to be perfectly right, and that it was impossible for sound lawyers to impeach it. The law Lords however prevailed upon the House to reverse it. The Keeper was very angry: and tradition tells us, that in going up St. Martin's Lane, in his way home, his coach stopped, and in some anger he said to the coachman, 'Why don't you drive on?' The coachman replied, 'My Lord I can't, yet—if I do I shall kill an old woman.' 'Drive on,' said the Keeper, 'if you do kill her, she has nothing to do but to appeal to the House of Lords.' After he became Chancellor and Lord Northington, this system of reversal came to an end. The Lords who so reversed his judgments, when Lord Keeper, were Lord Hardwicke and Lord Mansfield, I think."

"I have been assured that when Lord Northington quitted the Chancellorship, and was placed in another office, I think that of Lord President, the Archbishop of Canterbury of that day congratulated him upon his removal, from his office of eternal and unceasing labour and fatigue, to a situation of so much ease and quiet. There was a great difference between the emoluments of the two offices. The party congratulated was much out of humour upon receiving these congratulations. Answering the Archbishop, he said very sulkily, 'I suppose, now, you would think I was extremely civil and kind, if I was to congratulate your Grace upon a translation from Canterbury to Llandaff!'"

"Tom Cowper, barrister and king's counsel, argued a case in the Court of King's Bench, upon the right of the parson of a parish to tithes *in kind* in the

parish of Rebus in Hampshire. The court was against him, and he then said, 'I see your Lordships are of opinion that 'Est *modus* in *Rebus**,' and therefore I shall give your Lordships no further trouble.' Lord Mansfield, who did not like trouble, and did like a joke, though it was a mere pun, much approved this."

"Taylor, the oculist, dining with the barristers upon the Oxford circuit, having related many wonderful things which he represented himself to have performed, was asked by Bearcroft, a little out of humour with his self-conceit, 'Pray, Chevalier, as you have told us of a great many things which you have done and can do, will you be so good as to try to tell us any thing which you cannot do?' 'Nothing so easy,' replied Taylor: 'I cannot pay my share of the dinner bill, and that, Sir, I must beg of you to do.'"

"A Jew, coming to bail a person in the King's Bench, was superbly dressed, in order that he might pass the better as sufficient in substance. He had on, particularly, a most rich gold embroidered waistcoat. The plaintiff's counsel was pressing him about his property, when old Lord Mansfield, who sometimes sacrificed a little to his love of a joke, said, 'Don't waste our time by objecting to a gentleman with such a waistcoat: he would *burn* for more than the debt.'"

"When Macklin, the actor, was very old, an attempt was made to drive him from the stage by certain persons, whom he afterwards prosecuted for the conspiracy. He succeeded, or would have succeeded, in his prosecution; but, standing upon the floor in the

* Horat. Sat. Lib. I. Sat. 1. line 106.

King's Bench, he said he had no resentment against those who had so ill-treated him, he wished only for an apology. That was made: upon which Lord Mansfield said, 'Mr. Macklin, you have *acted* well all your life; but you have *acted* to-day more to your honour and credit than you ever acted before.'"

"Upon the trial of a horse-cause before Lord Mansfield, a witness was examined, who stated that the horse was returned to his master, after the gentleman, who had bought it, had kept it nearly three months. 'What!' said Lord Mansfield, 'was your master willing, at the end of three months, to take it back again? How could he be such a fool? Who advised him to do that?'—'My Lord,' said the witness, 'I advised him to take the horse again.'—'How could you be such a fool?' said the Chief Justice. 'What was your reason for giving that advice?'—'Please you, my Lord,' said the witness, 'I told my master, what all the world knows, that your Lordship was always against a horse-dealer, right or wrong, and therefore he had better take it back.'"

"When the Dog Act had passed, which was brought into the House by Sir Thomas C——, and by the enactments of which, the person convicted before a justice of peace of stealing a dog, was to be forthwith whipped, but, nevertheless, was to have the benefit of an appeal to the quarter sessions which should be held next after, the Judge who was upon the northern circuit (I think Baron Perrott was the Judge), in giving his charge to the grand jury at Durham, stated that it was his habit to give the grand jury the most useful information he could respecting the cases in the calendar, and to explain the several Acts which

had passed in the preceding session of Parliament relative to offences. He then went through several, with observations, and concluded by adverting to the Dog Act. This, he said, he and his eleven brethren the judges, had endeavoured to understand, but they were unable to comprehend it — a thing he should have much lamented, if he did not perceive that the gentleman who brought the bill into parliament was their foreman, and who could, of course, inform them what was the value of an appeal against being whipped, after the whipping had been inflicted."

"Many absurdities have been noticed in Irish acts of parliament; perhaps none greater than what, I think, may be found in an English act of parliament. There was an act for rebuilding Chelmsford gaol. By one section, the new gaol was to be built from the materials of the old gaol; by another, the prisoners were to be kept in the old gaol till the new gaol was finished."

"Serjeant Sayer went the circuit for some judge who was indisposed in health. He was afterwards imprudent enough to move, as counsel, to have a new trial of a cause heard before himself, for a misdirection by the judge. "Lord Mansfield said, 'Brother Sayer, there is an act of parliament, which, in such a matter as was before you, gave you discretion to act as you thought right.' 'No, my lord,' said the Serjeant, 'I had no discretion.' 'You may be right, brother,' said Lord Mansfield, 'for I am afraid even an act of parliament could not give *you* discretion.'"

"Sir Fletcher Norton, at Durham, examined a sailor as a witness, who vexed Sir Fletcher by the manner and matter of his answers. 'Oh,' says Sir Fletcher,

'you affect to be a very clever fellow, quite a wit.' 'To be sure I do,' says the sailor; 'I am a well-educated one.' 'You well-educated! why, where?' said Sir Fletcher; 'where were you educated?' 'At the university,' said the sailor. 'University!' replied Sir Fletcher, 'at what university could you be educated?' 'Why,' said the sailor, 'at the university from which you were expelled for your impudence —Billingsgate.'"

"Sir Fletcher had the reputation of not adhering strictly to truth. It was imputed to him that he said, 'My dear lady is the most unfortunate player at cards that ever was known. She has played at whist for twenty years, and never had a trump.' 'Nay,' said somebody, 'how can that be? she must have had a trump when she dealt.' 'Oh, as to that,' said he, 'she lost every deal during the whole twenty years.'"

"Serjeant Davy learnt what he knew, I always understood, in the King's Bench Prison. He was a tradesman (a grocer, I think) in Exeter, where he became a bankrupt. By force of a strong natural understanding, he became eminent at Nisi Prius, which such a man may be without knowing much law. On one occasion, when upon the western circuit, he had grossly abused a gentleman in his speech in a cause. The gentleman, greatly offended, sought an opportunity at Winchester, where the offence was given, and afterwards at Salisbury, to challenge him; but the serjeant evaded all his attempts. The other followed him to Dorchester, and knocking at a very early hour at the door of the house where the lawyer lodged, upon it being opened, he walked into the house, and walked from room to room till he found

himself in the room where the lawyer was in bed. He drew open the curtains, and said that the lawyer must well know what his errand was: that he came to demand satisfaction: that he too well knew that the person upon whom that demand was made was unwilling to comply with it; but that satisfaction he must have and would have. The serjeant began to apologise. The gentleman said he was not to be appeased by apologies or words: his honour had been tarnished, and the satisfaction, which a gentleman owed to a gentleman whom he had calumniated, he came to demand and to insist upon. 'Well,' said the serjeant, 'surely you don't mean to fall upon a naked unarmed man in bed?' 'Oh no, sir,' said the gentleman; 'you can't but know in what way this sort of business is conducted between gentleman and gentleman.' 'Very right,' then says the serjeant. 'If you give me your honour that you don't mean to fall upon me naked and unarmed in bed, I give you mine that I will not get out of bed till you are gone out of town, and I am in no danger of seeing you again.'"

"Serjeant Davy had a very large brief, with a fee of two guineas only on the back of it. His client asked him if he had read his brief. He pointed with his finger to the fee, and said, 'As far as that I have read, and for the life of me I can read no farther.'"

"At the Old Bailey, after a case had been gone through against a prisoner, and was strongly made out against him, Judge Gould asked who was concerned for the prisoner. Davy said, 'My Lord, I am concerned for him, — and *very much concerned*, after what I have heard.'"

"Serjeant Davy being told in Westminster Hall, by a solicitor, who lived at Henley-upon-Thames, that he had quitted business, beckoned to his brother Serjeant N., who was an Oxford circuiteer, and, on his coming up to them, said to him, 'Brother, you are very uncivil not to notice this gentleman, an eminent solicitor upon your own circuit.' N., who, as it is said, was all civility to such persons, made a thousand apologies for his apparent neglect, and engaged the solicitor to dine with him on the following day. The solicitor then leaving the two Serjeants, Davy said, 'Brother N., this is a bite. The man has just told me he has entirely quitted business; so your dinner goes for nothing.'"

"Serjeant Davy agreed with Serjeant Whittaker to purchase two pipes of Madeira, which were to go to the East Indies and be paid for upon their arrival in the Thames. Davy, hearing that the wine was remarkably fine, and knowing that his brother did not like paying his money for nothing, whilst they were talking together in Westminster Hall, took occasion to say, 'Brother Whittaker, how unfortunate we have been in not insuring those two pipes of Madeira! The vessel on board of which they were, is lost, and our Madeira is at the bottom of the sea, and now you and I have to pay our money for nothing.' '*Our* Madeira!' said Whittaker, 'I don't know what you mean. I have nothing to do with any Madeira.' 'What,' said Davy, 'you surely don't mean to deny that we were to be joint purchasers of two pipes, which, for improvement, were to go to the East Indies and back, and now to get off paying your half of what we jointly purchased?' Whittaker positively

denied that he had ever entered into any such joint engagement. 'Well then,' said Davy, 'I am glad of it. It is the finest Madeira that ever came into the Thames. The ship and the wine are safe, and the wine is all my own.'"

"At the head of a Court in Westminster Hall (the Exchequer), sat one very worthy and excellent person (Lord Chief Baron Macdonald), who never ceased taking snuff: the junior judge (Mr. Baron Graham), who was also a very worthy and excellent person, when he first came upon the Bench, was too much addicted to talking. His Majesty, George III., said, 'That Court has a snuff-box at one end, and a chatter-box at the other.'"

"Mr. Justice Willes, the son of Chief Justice Willes, had many good qualities, but he was much too volatile, and inattentive to reasonably grave behaviour upon the Bench. He was, however, very anxious to do right. He condemned a boy, I think, at Lancaster, and with the hope of reforming him by frightening him, he ordered him for execution next morning. The judge awoke in the middle of the night, and was so affected by the notion that he might himself die in the course of the night, and the boy be hanged, though he did not mean that he should suffer, that he got out of his bed, and went to the lodgings of the high sheriff, and left a reprieve for the boy; and then, returning to his bed, spent the rest of the night comfortably."

"Mr. Dunning, when at the Bar, being in very great business, was asked how he contrived to get through it all. He said, 'I do one third of it —

another third does itself — and the remaining third continues undone.'"

"An Attorney in Dublin having died exceedingly poor, a shilling subscription was set on foot to pay the expences of his funeral. Most of the attorneys and barristers having subscribed, one of them applied to Toler, afterwards Lord Chief Justice Norbury, expressing his hope that he would also subscribe his shilling. 'Only a shilling,' said Toler, 'only a shilling to bury an attorney? Here is a guinea: go and bury one-and-twenty of them.'"

Lord Eldon used to tell a story of a Mr. Bicknell, a master in chancery, which seems to have been the original of Peter Pindar's well known tale. Mr. Bicknell, in passing through Sheffield, bought some razors at a very low price; but finding them worthless, called, in his way back, upon the man of whom he had bought them, and represented the impossibility of shaving with them. 'Shave,' replied the man, 'did you want them to shave with?' 'Why, for what other purpose could I want them?' was the answer. 'Why, Sir, I thought you wanted them to sell them again.' 'Well,' said Mr. Bicknell, 'but the person who might buy them of me, if I *had* meant to sell them, would have wished to shave with them.' 'True, Sir,' answered the vendor, 'but what's that to you or me?'"

Lord Eldon told his grandson, the present Earl, that Lord Thurlow, upon the point of giving a clergyman a living, stated to him, that he must desire he would continue the same curate who had been there in the time of his predecessor, and whom

he believed to be a deserving man. The clergyman represented that his intended arrangements were such that he could not do so. "Very well," replied Lord Thurlow, "if *you* will not take him for your *curate*, *I* will make him the *rector*." And he did so.

CHAPTER XV.

1799—1801.

SIR J. SCOTT APPOINTED LORD CHIEF JUSTICE OF COMMON PLEAS: TITLE OF ELDON: DEGREE OF SERJEANT: PATENT OF PEERAGE: LETTERS TO HIS FAMILY.—LINES ON HIS ADVANCEMENT.—ARMORIAL BEARINGS.—PARALLEL PROGRESS OF SIR WILLIAM SCOTT.—THE KING'S PLEASURE RESPECTING LORD ELDON'S WIG.—DEATH OF HENRY SCOTT.—LORD ELDON'S FIRST SPEECHES IN THE HOUSE OF LORDS: HABEAS CORPUS: PREVENTION OF ADULTERY.—MERITS OF LORD ELDON AS A COMMON LAW JUDGE.—DEATH OF JUDGE BULLER: USE AND PROVINCE OF EQUITY JURISDICTION.—DEATH OF LORD ELDON'S MOTHER.—HIS LETTER ON THE PROPOSAL OF A COUNTY REPRESENTATION FOR HIS ELDEST SON.—STORIES, OF MR. JEKYLL AND THE WESTERN CIRCUIT.—REMARKABLE TRIALS.—LETTER OF SIR JOHN MITFORD TO LORD KENYON ON STATE PROSECUTIONS.—LORD ELDON'S SPEECH ON RIGHT OF SEARCH.—RESIGNATION OF MR. PITT: CATHOLIC QUESTION.

Lord Eldon has left in his Anecdote Book his own account of the circumstances under which he obtained the chief justiceship, vacated by the death of Sir James Eyre.

"After I had served the offices of Solicitor General and Attorney General from 1788 to 1799, the Chief Justiceship of the Common Pleas becoming vacant, and feeling myself worn down with labour and fatigue, I made a point of succeeding to that office. My pretensions were very much opposed by the Chancellor Lord Loughborough, and by Mr. Pitt, then Minister. Both wished to give the office to Sir R. P. Arden, then Master of the Rolls. They represented to me

that it was, on my part, bad judgment to change my situation,—as it certainly was in a pecuniary point of view,—but I thought my health and comfort required my retirement from the laborious office of Attorney General. Mr. Pitt was pleased also to express, repeatedly, regret that I should quit the House of Commons. The difficulties were at length overcome, Mr. Pitt agreeing, if with the Chief Justiceship I would, as Lord Camden did, go into the House of Lords as a peer; and the King consented, provided that I would promise not to refuse the Great Seal when he might call upon me to accept it. This condition, prescribed by his Majesty, I thought I could not refuse to accede to."

When it became known that the Chief Justiceship of the Common Pleas was to be filled by Sir John Scott, Lord Kenyon, who was then Lord Chief Justice of England, took an opportunity, from the Bench, of expressing his congratulations to the profession, particularly to those who practised in the Common Pleas, on the appointment of one, who, he said, would probably be found "the most consummate Judge that ever sate in judgment."

Some question now arose about the choice of a title for the proposed peerage.

Sir John Scott to Sir William Scott. — (Extract).

No date; but written July 1799.

"There seems to be, as suggested by Mitford, a difficulty about Allondale. The whole dale belonging to Mr. Beaumont, and I having no connection with it, it's thought it may give offence to trespass upon it. If the Chancellor thinks so and you, I must resort to something else; there's hardly any that don't open to some such objection, and I may be driven to Eldon at last.

"'*Sit sine labe decus*,' is the best motto by far that I have heard of, and John told me he had it from you.

"As the ring is to be a compliment to the King, I have thought of Virgil's description of the hive when the King is secure, as applicable to the unanimity of the country in the present security of its monarchy.

Rege incolumi, mens omnibus una.*

"Pray, my dear brother, send me a line when you receive this. I am going to spend my last day in the Court of Chancery, and then I am to dine with the Chancellor, so that I fear I cannot get to the Commons; and, the moment I come out of Court, I could only come under strong emotions of spirits. I can find nobody that can think that Scott will do, except Lord R., and I wo'n't have it unless you bid me; and I understand myself to have been in possession of your ideas before.

"God bless you,

"Yours,

"J. SCOTT."

Those members of the Bar who are selected for judicial office in any of the three superior courts of common law, if not already Serjeants, are always, by ancient custom, admitted to that degree before they take their seats on the Bench, and are therefore styled Judges of the degree of the coif. This rank, at the period when Sir John Scott was about to receive his promotion, could be taken only in term time; and, therefore, the long vacation having begun, Parliament was pleased, before the sealing of his patent, to pass an act, 39 Geo. 3. cap. 113., whereby such persons, as the Crown might appoint to be Judges, were enabled to take upon themselves the degree of Serjeant, in Vacation. The King's writ, commanding

* 4 Georg. 212.

Sir John Scott to take upon him this degree, bears date the 16th of July 1799, on which day he took the oaths of Serjeant. The rings which, according to the usage, he gave to the Serjeants and others upon his entering into their brotherhood, bore the motto from Virgil, upon which he had consulted his brother in the foregoing letter.

On the 17th of July, he was sworn of the Privy Council. His patent of Peerage is dated on the 18th, by which King George III. creates "our trusty and "well-beloved Sir John Scott, Knight," a Peer, as "Baron Eldon of Eldon, in our County Palatine of "Durham," and grants that "name, state, degree, style, "dignity, title, and honour,"—"unto him the said Sir "John Scott, and the heirs male of his body lawfully "begotten and to be begotten." And by patent, dated the 19th, his Majesty appoints "our right trusty and well-beloved councillor, John Lord Eldon,"—"our Chief Justice of the Common Pleas."

Lord Eldon to his Mother.

"Lincoln's Inn, 19th July, 1799.

"My dear Mother,

"I cannot act under any other feeling than that you should be the first to whom I write after changing my name. My brother Harry will have informed you, I hope, that the King has been pleased to make me Chief Justice of the Common Pleas and a Peer. I feel that, under the blessing of Providence, I owe this,—I hope I may say I owe this,—to a life spent in conformity to those principles of virtue, which the kindness of my father and mother early inculcated, and which the affectionate attention of my brother, Sir William, improved in me. I hope God's grace will enable me to do my duty in the station to which I am called. I write in some agitation of spirits, but I am anxious to express

my love and duty to my mother, and affection to my sisters, when I first subscribe myself,

"Your loving and affectionate Son,

"ELDON."

Lord Eldon to his Brother Henry.

"My dear Harry,

"I would write you a longer letter, but I am really so oppressed with the attention and kindness of my friends, that I can't preserve a dry eye. God bless you and my sister; remember me affectionately to Mr. and Mrs. Forster. You shall hear from me again. With the same heartfelt affection with which I have so often subscribed the name of J. Scott, I write that of your affectionate Brother,

"ELDON.

"Lincoln's Inn, 20th July, 1799."

Lord Eldon to the Rev. Matthew Surtees.

"July 22d, 1799.

"My dear Mat.,

"I am unable to express the feelings which your kind letter occasioned. In truth such expressions of regard and good opinion, as upon this occasion I have received, whilst they administer a consolation which is invaluable with reference to what is past, I am afraid at the same time must oppress me with the apprehension that a greater demand is made upon me with respect to the future, than I shall ever be able to satisfy. But experience has proved, in my own case, that so much indulgence is given to men acting with upright intentions, that I occasionally indulge a hope that I may be able to execute satisfactorily the important duties of that great and important station, which an English judge holds. I have quitted a station of great anxiety (such as I hope is unlikely to attend the office of Attorney General in after times) and of great emolument, for a situation of dignity and ease, and of infinitely less pecuniary advantage. I am sorry to add that I am not aware that it furnishes me with any new powers of attending to the advantage of others

effectually. I have some reason to believe that it may not eventually render more uncertain, than it was, the prospect of attaining the highest situation in the law. If the King's pleasure should ever call me out of the quiet and retirement in which it has now placed me, may I hope you will give me credit when I assure you, that as strong a motive for change as I can act upon will be found in the reflection, that the sacrifice of my own ease and comfort may enable me to gratify some anxiety about you? This change, however, is too uncertain to be much relied upon. As a symptom that I wish for connection, may I hope that you will gratify the first request of the kind, which, as a Peer, I have made, viz. that you will wear my scarf as my first-named chaplain, under the statute of Hen. 8.? Your sister, who has been considerably agitated by this change, requests the love of you, and her sister whom she does not yet know. John is gone into Wales. The rest of my family are all well. God bless you, dear Mat., and believe me, *alterum sed eundem*, and, with *mutato nomine* only,

"Your faithful and affectionate

"ELDON."

Lord Eldon preserved among his papers the following hexameters upon his peerage. The author's name is not annexed: he had probably no very intimate acquaintance with the family of Scott, as he mistakes the Durham estate of Eldon, whence the title is taken, for those Eldon or Eildon hills in Roxburghshire, which are associated, in poetical records, with the name of Thomas of Erceldoune, "the Rhymer."

ON SEEING IN LAST NIGHT'S NEWSPAPER THE INTENDED PROMOTION AND TITLE OF SIR JOHN SCOTT.

Montes, haud Musis incognita nomina, montes
Claustrum olim regnorum atque alta repagula belli,—
Vos quando, arma minata armisque educta, colebat

Libertas montana sibi, (dum fata vetabant
Imperii pacem, atque uni submittere sceptro),—
Marti olim sedes, et jam celebrata Minervæ!
Montibus hisce novum decus addidit ipsa, coronam
Hinc Themidi intexens: titulos virtute paratos
Hinc dedit: et patriæ puros gratatur honores.*

Lord Eldon's elevation to the peerage having entitled him to add supporters to his arms, this opportunity was taken of introducing into his escutcheon some honourable augmentations, commemorating the high position now attained both by him and his brother, in different branches of the law.†

* Which may be thus rendered: —

Hills, not unnamed in song, — hills, once the bound
Of kingdoms, and high barrier of their wars,
While Mountain Liberty, menaced with arms
And arming, till'd you, (fate forbidding yet
An Empire's peace, a single sceptre's sway,) —
Seat once of Mars! — Minerva decks you now
With a new grace, — from you, a coronet weaves
For Themis — gives, from you, the title won
By merit — and upon these honours pure
Congratulates the land.

† NOTE BY THE PRESENT EARL. — "The grant of the Garter King of Arms bears date the 10th of October 1799: and, after reciting his Majesty's letters patent which bestow upon Lord Eldon the honour of the peerage, and the Earl Marshal's warrant authorising Sir Isaac Heard, Garter Principal King of Arms, "to grant to the said "John Baron Eldon such supporters "as may be proper to be borne by "him, and by those to whom the "said honour shall descend, in "virtue of His Majesty's said "Letters Patent of creation, and "also to grant, confirm, and ex- "emplify, in the same Patent, the "arms borne by his family, with "such variation as may be neces- "sary, to be borne by his Lord- "ship, and his descendants, and "by those of his late father, Wil- "liam Scott, deceased;" the instrument proceeds thus: "I the "said Garter, with the consent of "the said Earl Marshal, and by "virtue of my office, do by these "presents grant, confirm, and ex- "emplify, to the said John Baron "Eldon, the arms following, that "is to say: Argent, an anchor

Lord Eldon took his seat in the House of Lords, on the 24th of September, 1799, introduced by Lord Grenville, then the Leader of Administration in that

" erect, sable, between three lions' " heads, erased, gules; on a chief " wavy azure, a portcullis Or; and " for crest, on a wreath for the " colours, a lion's head, erased, " gules, gorged with a chain, a " portcullis therefrom pendant, Or, " (a mullet for difference,) to be " borne by him, and his descend- " ants, and by those of his said " late father, William Scott, de- " ceased. And I do also, by these " presents, grant unto the said " John Baron Eldon the support- " ers following: viz., On each " side, a lion guardant proper, " gorged with a double chain, a " portcullis attached thereto, gold, " from which is suspended a shield " argent, charged with a civic " wreath, vert; as the same are " in the margin hereof more plainly " depicted, to be borne and used " for ever hereafter by him the " said John Baron Eldon, and by " those to whom the said honour " shall descend, in virtue of His " Majesty's said Letters Patent of " creation: in witness," &c.

At the commencement of this work, it was mentioned that Lord Eldon and his family, before his elevation to the peerage, bore the coat of arms and the crest of the Scotts of Balweary.

A seal, that belonged to his eldest son, engraved with the crest, and a shield on a panel in the hall of University College, Oxford, charged with the arms of his brother William Scott, are instances still remaining of the family having so worn them. The addition made in October, 1799, of the chain and portcullis on the crest, and of the portcullis on a chief in the shield, were granted in record of Lord Eldon having become Chief Justice of the Common Pleas, and as such, wearing, on state occasions, over his robe, the collar decorated with that badge of the Sovereign from whom his authority was derived. The anchor, together with the azure colour and wavy border of the chief, on which ordinary of the shield the portcullis is placed, are commemorative of the elevation of his brother Sir William Scott to the Bench as Judge of the High Court of Admiralty.

The supporters appropriated to the title of Eldon again present the chain and portcullis; and the shield with the civic wreath, attached to them, forms another emblem of the high civil distinctions which the brothers had attained.

Heraldry is generally understood to admit of an arbitrary assumption of mottos; nor is it customary to embody them in the wording of an heraldic grant; but in the margin of this grant to

House, and Lord Walsingham, the Chairman of the Committees.

On the 6th of November, which was then the first day of Michaelmas term, Lord Eldon was admitted a member of the Society of Serjeants.

He was succeeded in the office of Attorney-General by the then Solicitor-General, Sir John Mitford.*

Lord Eldon, where the whole is depicted as usual, the Latin words "Sit sine labe decus," signifying "let honour be without stain," are adopted as the motto, being those suggested at the time by Lord Stowell, and which do not appear to have ever been used before, either by the Scotts, or by any other family.

We find the same motto again used afterwards by Lord Stowell himself in the margin of the grant of supporters which, when he had been created a peer, July 17, 1821, it became necessary to make to him, and which grant bears date December 7th of that year. From Lord Eldon's supporters, those of Lord Stowell differed in this respect only, that instead of the shield argent being "charged with a civic wreath vert," it is "charged with an anchor erect sable," as more peculiarly appropriate to the office of Judge of the Admiralty, which, at that time, he had already held for twenty-three years.

When Lord Eldon took his seat as a Baron, he delivered his pedigree, according to the usual course at that time. This pedigree has been lost, like most others, as I have learnt from Mr. Leary, the librarian of the House of Lords, who has collected and caused to be bound for the library of the House such pedigrees of peers as he was able to find undestroyed.

It is now no longer the course of the House of Lords to require pedigrees to be delivered on similar occasions; which Mr. Leary told me was principally owing to Lord Eldon, who thought such a practice opened a channel which might, in some cases, be applied to fraudulent purposes.

* NOTE BY THE PRESENT EARL. — When the appointment of Sir John Scott to the office of Solicitor-General in 1788 was stated to the reader, the parallel progress of his brother, Sir William Scott, to the office of King's Advocate-General, and to other appointments, was mentioned. Since that year, Sir William Scott had received the appointment of Master of the Faculties, on the 3d of April, 1790; he had been elected to the bench of the Middle Temple, July 5, 1794, where he held the office of Treasurer for the year 1807-8; and in the year previous to the

Lady Eldon, in all her anticipations of her Lord's judicial promotion, had been much fretted by the consideration that he would have to assume the ordinary head-dress of the Common Law Judges, a powdered bush-wig. She had, therefore, induced him to sit for his portrait while he was yet but Attorney-General, so as to make sure of preserving a record of his features undisguised by the obnoxious peruke: and the portrait which was painted by Sir Thomas, then Mr. Lawrence (and which remained in Lord Eldon's possession to his death), is dressed in exact accordance with the toilette which he practised before his elevation to the Bench.

"In compliance with Lady Eldon's feeling," says the present Earl, "Lord Eldon applied, as he has told me often, to King George III. to allow him to dispense with his wig, at times when he was not engaged in performing official functions. He pressed on the King the fact, that in former days, under the reigns of some of his Majesty's predecessors (referring, I think, particularly to James I. and Charles I.), wigs were not worn by the Judges. 'True,' replied the King good humouredly, 'I admit the correctness of your statement, and am willing, if you like it, that you should do as they did: for though they certainly had no wigs, yet they wore their beards.'" Lord Eldon,

one in which Lord Eldon was elevated from the office of Attorney-General to the Judgment Seat, Sir William Scott became Judge of the High Court of Admiralty of England, by Letters Patent of King George III., which bear date October 26, 1798, and he was sworn of his Majesty's Most Honourable Privy Council on the 31st of the same month.

shortly before his death, relating to Mrs. Forster this story of his application to the King, mentioned also the reasons assigned by him to his Majesty. "I suffered at that time from head-aches; besides, I told him, my wife did not like me in a wig. 'No, no,' said the King, 'I will have no innovations in my time.'" When he became Chancellor, the wig of private life was discontinued.

The days of his Chief Justiceship, though they lasted only from July 1799, to April 1801, contributed greatly to his fame. On the Bench of a Common Law Court, no scope was allowed to his only judicial imperfection, the tendency to hesitate. A Common Law Judge, when he has to try causes at Nisi Prius, or indictments in a Crown Court, must sum up and state his opinion to the Jury on the instant; and when he sits in Bank with his brethren to decide questions of law, must keep pace with them in coming to his conclusions. Thus compelled to decide without postponement, Lord Eldon at once established the highest judicial reputation: a reputation, indeed, which afterwards wrought somewhat disadvantageously against himself when Lord Chancellor, by showing how little ground there was for his diffidence, and consequently how little necessity for his doubts and delays.

The close of the year 1799 was saddened by the death of Henry Scott, to whom both of his brothers were much attached. On the death of this beloved relation, who is said to have been endowed with faculties not inferior to those of either William or John, the latter writes thus to his sister Barbara:—

"Dear Bab,

"After it has pleased God to take from us one of the family, I feel most strongly pressed by my heart to send you, my mother, and sister Burdon, as parts of it which yet remain, my anxious good wishes and the expression of cordial hope for the happiness of all of you. I have felt very acutely upon this event, and my mind has been running back through scenes of infancy, youth, and manhood, which I spent with poor Harry, till my firmness has occasionally quite failed me, and my spirits have been depressed excessively. I shall be very happy to have a few lines, to hear how my poor mother, and you, and Jane, and all her family are, and I beg to be most affectionately and kindly remembered to all of them. I write this where I can neither find any such paper or other matters as I ought at present to make use of; but I am sure you will receive in any form the affections of myself and all the family, and I remain, dear Bab,

"Truly and cordially yours,

"ELDON."

"London, December, 1799."

The first speech of Lord Eldon in the House of Lords, of which there is any report, was made on the third reading of the Bill passed in 1800 for the suspension of the Habeas Corpus Act. Lord Holland having argued against the suspension, on the ground that there had been no conviction for high treason except in the single case of O'Coigly,

Lord Eldon said* that the person so convicted was proved to have been planning, with disaffected bodies of men in this country, the destruction of the British interest in Ireland; and surely the noble lord need not be told, that a person attempting to sever the Crown of Ireland from that of England was guilty of an overt act of treason. The noble lord

* Parl. Hist. 1800, Feb. 27.

had argued that none should be apprehended but such as could be brought to trial: but he should know that cases might occur, in which, for want of two witnesses, persons could not be legally convicted, though no doubt remained of their guilt. But would the noble lord say that therefore no danger existed? Would the noble lord argue, that, because sufficient legal proof could only be brought against one of the men who were put upon their trial at Maidstone, the legislature should not have endeavoured to prevent the mischief? He would venture to say, that to the suspension of the Habeas Corpus Act was owing the preservation of the Crown in the House of Hanover; and that, by it, late and former conspiracies had been broken to pieces.

The Union with Ireland was completed by the Legislature in the spring of 1800; but in the debates on this important measure, Lord Eldon took no part.

He interested himself warmly in favour of Lord Auckland's bill for the prevention of adultery, which was discussed in the same session. The most material clause was one which prohibited the marriage of the adulterers after the divorce.

Lord Eldon supported the principle of this clause, not because he thought it would be *sufficient* to prevent the enormous crime, for so he regarded it, of adultery, but because he thought it would have *a tendency* to such prevention. It was true that the contract of a seducer to marry his victim was invalid in law; but a simple and silly woman might be likely enough to act on the opinion that it would be fulfilled, and that might be one of the terms on which she surrendered her virtue. Let her, therefore, be told by this bill that she would be effectually prevented from marrying her paramour.*

The first bill having been found defective, Lord Auckland, in the month of May, introduced another,

* Parl. Hist. 1800, April 4.

having the same general objects, and proposing to punish adultery as a misdemeanor. This bill being opposed by Lord Moira,—

Lord Eldon deprecated the rejection of it, because he was certain that nine out of every ten cases of adultery, that came into the courts below, or to that bar, were founded in the most infamous collusion, and that, as the law stood, it was a farce and a mockery, most of the cases being previously settled in some room in the city; and that juries were called to give exemplary damages, which damages were never paid to, nor expected by, the injured husband.*

On the third reading, Lord Eldon again spoke in favour of the bill.† It passed the House of Lords, but was thrown out in the House of Commons.

In the summer of 1800 the Bench of the Common Pleas was deprived of a most able and efficient judge, by the sudden death of Mr. Justice Buller. His talents and his legal acquirements have been universally appreciated: and Lord Eldon has left a testimonial to his candour also.

"I must do Mr. Justice Buller," says he, in the Anecdote Book, "the credit of recording, that in my opinion he had more candour as a judge than the profession in general thought he possessed. He went into the Court of King's Bench utterly unacquainted with the doctrines of equity. Lord Mansfield had said in that Court, that 'he never liked law so well as when it was like equity.' Buller was persuaded that this was right. The truth seems to be, that Lord Mansfield had not retained a very accurate memory of cases in equity. In order, however, to introduce and establish this likeness between law and equity,

* Parl. Hist. 1800, May 16. † Parl. Hist. 1800, May 23.

doctrines were held, new in courts of law. When Lord Kenyon succeeded Lord Mansfield, this was set right, and suitors for equity were sent to the Courts of Equity. When I sat with Mr. Justice Buller in the Court of Common Pleas, and had some temperate talk with him upon these subjects, I think he so far departed from the opinion of Lord Mansfield, 'that 'law was never so right, as when it was like equity,' as to be not much indisposed to agree with Lord Chief Justice de Grey, who, in the same week in which Lord Mansfield had declared that 'he never liked law so well, as when it was like equity,' took occasion publicly to state from the Bench, that 'he never liked equity so well, as when it was like law.' With all deference to these great men, law and equity ought to be considered as distinct systems; and that they are so considered, and kept apart, in England, is perhaps one of the best provisions in our constitution."

In another passage of the Anecdote Book he pursues the subject further:—

"Lord Kenyon, when Chief Justice, was very apt, if, upon a trial, he found that a plaintiff could not succeed, who, in his judgment, ought to succeed according to Equity, but could not be relieved at Law, to advise the party to apply to a Court of Equity. No man hated iniquity more than he detested it, and therefore he was always disposed to put a deserving party in the right way, who had begun his suit for justice in a wrong way. But he had the habit of advising parties to apply to a Court of Equity, in terms which affected, by the weight of his authority, the credit of such a Court. The advice was generally

given thus:—This party can't succeed at Law, though in conscience he is right: I must, therefore, say to him, *Abi in malam rem:* and then construed the words thus: Go into the Court of Chancery. Lord Thurlow once said to him, 'Taffy, when did you first think the Court of Chancery was such a *mala res?* I remember that you made a very good thing of it. And when did Attornies and Solicitors become so very odious as you, now and then, at present represent them to be? I don't remember that when we were in the Court of Chancery they were thought by you to be such very bad fellows.' I have heard dozens of Common Lawyers flippantly abusing Courts of Equity, upon the authority of this piece of Latin of Lord Kenyon's; and it is very much to be lamented, perhaps, that the authority of so great a lawyer, (who so thoroughly well knew how defective and insufficient the common law would be to answer the exigencies of complete justice, and how absolutely necessary the jurisdiction exercised in the Court of Chancery is,) can be resorted to in support of that abuse of such a Court by those who may know the practice of Courts of Law, but who are certainly most astonishingly ignorant of the nature and principles of the jurisprudence of this country taken altogether, and of the necessity of that separation of Courts of Law and Equity which so mainly contributes to the complete and effectual administration of justice in this country, and secures to the people an administration of justice, to an extent and in a degree, such as are unknown and must be ever unknown where that separation is not effectually made and observed."

The opinions, here censured by Lord Eldon for their

flippancy, seem to be much modified since his time. At this day, hardly any one will be found to deny that in many branches of equitable jurisdiction, the machinery of a court of law would be unsuitable, and indeed wholly inadequate. This is practically proved by what occurs every week in cases where the jurisdictions of law and of equity are concurrent: as in matters of account, and in suits for contribution,—where the party seeking his remedy may have it in either court, but yet is almost always found to prefer a Court of Equity, because its instruments for administering that remedy are so much more complete than those which a Court of Law affords. It would be no good reasoning to say, that if Courts of Equity were abolished, these instruments and machinery might be transferred to the Courts of Law; because that would not be to blend the two separate systems into one, but only to commit the two systems *still separate*, to the administration of one judicature. Such was actually the constitution of the Court of Exchequer until it was remodelled, in 1841, when its equitable judicature was transferred to the Court of Chancery; which very transfer arose from a general feeling that the two systems of law and equity are not conveniently administered in the same court. The only descriptions of cases in which any experienced person would now think of investing a court of law with the jurisdiction exercised in equity (and even in these cases the change would be by no means free from practical objections), are, where the question turns upon one demand, mooted by one plaintiff, or one set of plaintiffs, all having one and the same relation to the subject, against one

defendant, or one set of defendants, also having all of them one and the same relation to the subject: as where several sue or are sued in a class. The matter may perhaps be fairly stated thus:—If the demands are numerous, as where an estate is to be administered for creditors; or if there be more parties than one, who do not, among themselves, hold the same relation to the matter, as in many cases of joint-stock and other mercantile transactions, the objects sought are usually too various, and the facts too much complicated with considerations of law, to be properly dealt with otherwise than by that sort of manifold inquiry, which is best conducted by a Master, and best solved by his report. On the other hand, where there is a complete unity of interest on each side, and that interest turns upon the decision of one matter, as where a plaintiff applies for an injunction against the piracy of copyright or patent right, and is content to waive the account of copies or articles piratically sold—or where he seeks simply an injunction against waste, or a foreclosure upon an ordinary mortgage, or even the specific performance of a contract,—in these and other cases of the like character*, there is reasonable ground to argue that the jurisdiction upon affidavit, which is exercised in many matters by a court of law, might be as effectually applied as the jurisdiction upon bill and answer which is exercised by a court of equity. Even, however, as to this last class of cases, it is by no means clear that the cognizance of them could be removed to the

* See, for instance, Legh *v.* Legh, 1 Bosanq. and Pul. 447., and Payne *v.* Rogers, Dougl. Rep. 407.

courts of law, without inducing much of that inconvenience and anomaly which Lord Eldon apprehended: as, for instance, in the application of the common-law machinery to the extraction of a defendant's answer on oath. And if it be surmised that Lord Eldon's studies had given him a bias toward equitable jurisdiction, it must be remembered that, great as was his knowledge of equity, he had as great a knowledge of common-law to balance it.

A chief justice, less competent to his functions than Lord Eldon, might have been much embarrassed by the loss of such a coadjutor as Mr. Justice Buller; but Lord Eldon, without the slightest arrogance toward any of his colleagues, was too much master of his whole duty to be dependent on their aid: and he continued to discharge his high office with a daily increase of reputation.

But a heavier loss befel him in this year. It was the death of Mrs. Scott, his mother, who paid her long-deferred debt to nature on the 16th of July 1800, at the age of ninety-one. Mr. John Surtees says, in a private letter, "I remember old Mrs. Scott dining at my father's, and my being much gratified to hear my father and her talk of old times: she seemed a sensible observing old woman." She had the good fortune of living, in the full possession of her faculties, to behold her eldest son placed in the judgment seat of the Court of Admiralty, and her youngest, and, as it has been supposed, her favourite, dignified with a chief justiceship, and with a peerage. "To think," exclaimed the old lady, when the latter was ennobled, "to think that I, in this out of the "way corner of the world, should live to be the mother

"of a Lord!" A few months more of life would have brought her to see her son on the topmost round of legal ambition, invested with the honours of the Great Seal. The mother of Lord Lyndhurst, and the mother of Lord Brougham, had each the happiness of witnessing such a consummation.

The following letter has no date, but appears, from internal evidence, to have been written in the year 1800, with reference to some suggestion that Lord Eldon's son should offer himself at the next election for the county of Durham:—

Lord Eldon to Sir William Scott.—(Extract.)

(Not dated,

"Dear Brother, but probably written in 1800.)

"I have had a letter from Burdon. He assigns no reason but a love of retirement. He adds only, what surprises me, but what is, in effect, this: that his support of the treason and sedition bills, and the stronger measures of government, have created him bitter, fierce, and unrelenting enemies, in a county in which he seems to say and to think all good men are inconceivably timid. Sir H. Vane Tempest, I understand, has offered himself, and bids defiance to competitors. Mowbray, the great land agent of the county, has called upon me; he says he is sure the thing would do. Sanderson, of Sunderland, has written to me to say that three-fourths of the Sunderland freeholders are divided; but to this there is an objection, like poor Edmund Burke's to modern revolutions: the working begins with the lowest instead of the highest. One great objection to the proposition must be of this sort, from the nature of things: I am necessarily a new man in the county, because I am so every where—the property nothing—official reputation worth nothing in the eye of a country squire or a county lord. The weight of great men, therefore, must be on the other side. But if it was otherwise, I do not descry any thing prudent in engaging in such a business. Sir John Eden, with a better fortune in

his family than I have, has been taught by experience, that, with only such a fortune, a man has more reason to rejoice when he can slip away from the representation of a county, than when he is placed in it. Here we must begin with a contest; and, if not, there is no security against it in future, and no retreating from it when it comes. An immediate expenditure of 15,000*l.* or 16,000*l.* would, in my opinion, be a gross injury to John. It would break up all that I have been projecting to render peerage to him a tolerable evil. Besides this, a man ought to have a certainly continuous income, very large indeed, who can have a son, in his lifetime, living as the member of a county. I don't know what allowance would be equal to such a station in modern times. I pay now, to and for John, about 1000*l.* a year, that is, 800*l.* to himself, 80*l.* as his income tax, and the rest for his chambers in Lincoln's Inn. Attending to the purposes, which this seems to answer, four times that sum would not do; and I could do nothing so unjust to him, as to engage at all events for a system of expense, the whole weight of which, in justice to the rest of my family, must eventually fall upon him. And for what is the present expense of a contest, and the expense of such a system, to be incurred? That any *younger* son of mine should ever have such a seat is out of all probability. I have no right to reckon upon seven years' existence. Is it to be incurred for a seat for those few years? Suppose Providence continues me here longer, what security is there against a second contest? or rather is there not a certainty of it? The thing will never do. I hope to hear no more of it. But I hope, more anxiously, that nobody will suggest it to John. Don't imagine by this that I imagine *you* would, in a grave matter of this sort, unless you and I were agreed upon it previously. But there are foolish and meddling people, who are too apt to talk upon interesting subjects. I can't wish you better, than by wishing that God may preserve you to see your son twenty-six, and that in the mean time he should give you no more uneasiness than John has given me. But, if we both live to that period, I will ask you whether nine-tenths of the little uneasiness you will have had have not proceeded from the tattle, which strangers to you and your

circumstances hold, to him who ought to know nothing of them but from yourself. You see I am writing in affectionate confidence. I am growing grave, however, and that's not right towards you at Southampton. I close this part of the letter, therefore, by saying, that I am sorry to say that John has been again plagued with his asthmatic complaint, but he is better, thank God.

"In confidence, my opinion is, that we are as likely to have invasion as peace."

Lord Eldon had some amusing stories referable to this period of his life. The Anecdote Book records a comic defence before him of a rioter, by Mr. Jekyll, who, for half a century, was the most distinguished Wit of the Bar: —

"This gentleman, in his practice as a common lawyer, was very successful, as many others have been, in diverting the attention of jurymen at county assizes, from thinking seriously in serious proceedings, by introducing observations and jokes, tending to turn all that was passing into the ridiculous. I went his circuit as a judge, when I was Chief Justice of the Common Pleas. There was a trial before me, I think in Somersetshire, of a prisoner for a riot. There were several questions asked by Jekyll and the counsel for the prosecution (Jekyll being counsel for the prisoner) as to the number of persons that composed the body of rioters. This species of questioning appearing to me to go to unnecessary length, I interposed, by saying, 'Mr. Jekyll, is it not sufficiently proved that there were more than three persons? Now, do not three constitute enough in number as to matters of riot?' 'I beg your Lordship's pardon,' said Jekyll; 'the case has not been fairly, candidly, and fully opened to your Lordship and the jury:

They have not told you and the jury that the rioters were all tailors; and I therefore confidently submit to the jury, that in this particular case they must prove that there were present at least nine times three, at least twenty-seven, though three men, not tailors, might be enough.' This tickled the fancy of the jurymen, made them laugh heartily, and though the case grew serious, *they* did not grow serious, and acquitted the prisoner.—Serjeant Davy, who went for many years the Western Circuit, used to express no very high opinion of the talents of the men of that portion of the kingdom; observing that it was most true that the wise men came from the East."

Lord Eldon used to tell another story of Jekyll, who was considered, even by his political friends, to be more of a wit than of a lawyer. His tendencies being rather democratical, he had visited Paris more than once during the early days of the French Revolution, and had lived a good deal with some of its leaders, of whom, and particularly of Mirabeau, he had many amusing anecdotes. "One day at dinner," said Lord Eldon, "I happened to sit next to Wilkes, and we were talking of one of the forms of government which the French had successively taken up. I spoke of it with disapprobation. Said Wilkes, 'they 'had it from my friend Jekyll, *who told them it was* '*the English constitution.*'"

On the Western Circuit, Lord Eldon and his brother-judge, in passing through Devonshire, accepted an invitation to the seat of a country gentleman on the banks of the Tamar. The scenery of that river being very beautiful, their host, after dinner, persuaded them, instead of continuing their journey that night,

to remain at his house till the following morning, and then proceed in his pleasure boat along the Tamar, to a point at which they could meet their carriages and resume the ordinary road. This being arranged, the two judges, on the following morning, pursued their journey by water, until luncheon time, when they landed on a pretty piece of meadow ground, and spreading their table-cloth on the grass, addressed themselves to the contents of their host's provision basket. Meanwhile the boatmen, left to themselves, made their way into an adjoining orchard, and began to pluck the fruit. This trespass brought out the owner, who chased the intruders to the scene of the luncheon; and angrily accosting Lord Eldon and his colleague, threatened to have the whole party before the judges. This outpouring of wrath lasted for sometime before it was possible to get in a word of defence or excuse; but at last their Lordships were permitted to explain, and the scrape ended with a handsome apology, and still better, a handsome present, from the judges, and a good deal of stammering and confusion on the part of the injured but abashed yeoman.

It was the good fortune of Lord Eldon, and deeply felt by him to be so, that during the term of his chief justiceship, he seldom had occasion to leave a prisoner for execution.

"One female," said he to Mrs. Forster, "was remarkably kind to me. She was to be tried for murder; and she made her escape from gaol just before the assizes commenced, and was not taken till they were concluded, so she had to remain in confinement till the following year, when she was convicted.

Thus, by that lady's well-timed flight, I escaped the pain of having to pass sentence of death."

Among the stories which he used to tell of causes tried before him at common law, there is a pleasant one, preserved both by Mr. Farrer and by Mrs. Forster, of a trial to ascertain the property in a dog. At the time of this trial Lord Eldon was living at No. 42 in Gower Street, whither he had removed from Powis Place. In Gower Street he resided about thirteen years, and he used to say that his house there was the pleasantest he ever occupied: he could look over the fields, then open, as far as Hampstead, Highgate, and Islington, and had a garden with excellent vegetables, and even peaches. Adjoining was a waste piece of ground; and "the men in London," said he to Mrs. Forster, "used to bring dogs to fight there. When I was Chief Justice of the Common Pleas (I did like that court!) a cause was brought before me for the recovery of a dog, which the defendant had stolen in that ground, and detained from the plaintiff, its owner. We had a great deal of evidence, and the dog was brought into court, and placed on the table between the judge and witnesses. It was a very fine dog, very large, and very fierce, so much so, that I ordered a muzzle to be put on it. Well, we could come to no decision; when a woman, all in rags, came forward, and said if I would allow her to get into the witness-box, she thought she could say something that would decide the cause. Well, she was sworn just as she was, all in rags, and leant forward towards the animal, and said, 'Come, Billy, come and kiss me.' The savage-looking dog instantly raised itself on its hind legs, put its immense paws

around her neck, and saluted her: she had brought it up from a puppy. Those words, 'Come, Billy, come and kiss me,' decided the cause. But when I was summing up, the defendant incautiously said in my hearing, 'the damages cannot be great, and them I will pay; but the dog I am determined they shall not have?' I observed upon this to the jury, and told them, that if they were satisfied the dog belonged to the plaintiff, they might give any amount of damages they pleased, after what they had heard from the defendant. Upon this the defendant got frightened, and consented to give up the dog."

Mrs. Forster. — "Then what was the verdict, uncle?"

Lord Eldon. — "Oh, that threat intimidated him, and he gave up the dog; the verdict was two hundred pounds, to be levied should he again become possessed of the animal."

"I recollect," says Lord Eldon in his Anecdote Book, "a great many actions brought at a particular period against clergymen — many of them very exemplary in their conduct and in the discharge of their duties as parish priests, but who, though resident within their cures, yet did not reside in the parsonage houses. This evil of prosecuting such clergymen was remedied, as to many depending actions, by act of parliament, which made provision also as to the future, by giving the Bishop a power to allow incumbents to reside, in proper cases, out of the parsonage houses. Where the parsonage houses were good, it was fit the clergymen should reside in them; but the law was very harsh where it was applied to clergymen who did not reside in houses, which, with their fami-

lies, they could not reside in, but who nevertheless discharged all their clerical duties in a most exemplary manner. During the short time in which I was Chief Justice of the Common Pleas, I tried two cases at Guildhall: one, an action against a clergyman, who, after reading himself in as incumbent of a church in the city, had never been in his church or his parish for many years; the other, an action against the incumbent of Bow Church, whose parsonage house could not be dwelt in by him and his family, it being a small house next the church, in which the business of a very small pocket-book seller was carried on; which incumbent was one of the most exemplary clergymen in London, performing personally every parochial duty in every day of the week. But, as the law stood, this excellent person was subject to the same penalties as the other most negligent, blameable incumbent. The valuable incumbent was Van Mildert, afterwards Bishop of Landaff and Dean of St. Paul's," and finally Bishop of Durham.

In relating this story to Mrs. Forster, Lord Eldon said:

"Now I have pleasure in telling this anecdote, for it reflects credit on the then Archbishop of Canterbury, Moore, that the moment he heard of it, he sent and paid the penalties and costs; and I like also to tell it, because it has sometimes been imperfectly told, from motives of maliciousness to a most honourable, upright man, Van Mildert."

The following case, recorded in Lord Eldon's Anecdote Book, is still harder on the clergyman: —

"I remember a case in the Exchequer,—upon a motion for a new trial, I think. A clergyman, with

a small or no family, lived in a large roomy parsonage house. An attorney in the parish, who had a large family, lived in a house so small as to be inconvenient for that family. The attorney proposed to the clergyman to change houses, and the attorney to pay the clergyman a yearly rent of several pounds in consideration of his residence in the larger and more valuable house. The year expired, and the attorney not offering to pay the rent, the clergyman applied to him for it: upon which the attorney insisted that this was a most unreasonable demand, as he had brought an action against the clergyman for eleven penalties, I think of ten pounds each, for non-residence in the parsonage house, the law then not deeming a clergyman's residence, though in the parish, legal residence, if he did not live in the parsonage house.— I remember Baron Eyre said it was the most abominable and impudent transaction he ever remembered, but that the clergyman could have no relief."

The eighteenth Parliament, from the union with Scotland, held its last separate session at the close of the year 1800, and passed another bill for the suspension of the Habeas Corpus Act. Lord Eldon, as in the preceding year, supported this measure.*

A letter on the subject of state prosecutions, addressed to Lord Kenyon in the early part of 1801 by Sir John Mitford, who had succeeded Lord Eldon as Attorney-General, illustrates the principles, upon which Lord Eldon, when Attorney-General, directed his own conduct in this important class of cases, and which he transmitted to his successors in the law offices of the Crown.

* Parl. Hist. 1800, Dec. 19.

Sir John Mitford, Attorney-General, to Lord Chief Justice Kenyon. — (Extract.)

"Lincoln's Inn, 5th Feb. 1801.

"The newspapers which your Lordship has sent me I shall take the liberty of showing to the Solicitor-General. In these cases I have generally followed the rule which Lord Eldon adopted for his conduct,—to notice, as much as possible, those cases *only* which did not personally involve his Majesty's Ministers; conceiving that there was a much greater chance of success in prosecuting for libels aimed personally at his Majesty, or against the constitution in church or state, than where ministers were directly the objects of the libel. The many cases, in which juries have shown an indisposition to notice personal attacks on ministers, have induced Lord Eldon and me to think that this forbearance was, on the whole, prudent. We have had, during the last seven years, many a painful moment in the consideration of these subjects; many more, not only than the world will give us credit for, but than even your Lordship can, from any view of the cases which have come under your eye, conceive. I think the press, on the whole, is become more decent; and I flatter myself that the very temperate exercise of the office of Attorney-General, whilst Lord Eldon held it, and since it has been in one who has carefully followed his steps, has had an effect in producing a general persuasion that the powers of that officer have never been used, but where the case manifestly demanded that they should be put in force.

"I have ventured to trouble your Lordship so long on this subject, and to throw my sentiments so openly before you, because every man must feel that many, many, very abominable libels have passed without animadversion.

"I have the honour to be, my Lord,

"Your Lordship's very obedient humble servant,

"J. MITFORD."

The Imperial Parliament of Great Britain and Ireland was opened on the 2d of February by the King in person; and on that day, an amendment having been moved in the House of Lords, to the

address which was proposed in answer to his Majesty's speech,

Lord Eldon spoke in favour of the address. The principal topic of his speech was the right of belligerents to search the vessels of neutrals, — a right which, though then disputed by the Northern States of Europe, had its origin in the law of nature and was interwoven with the very principle of self-defence. He insisted on the importance of maintaining that right, as the foundation of our commerce, our wealth, and our naval glory.

From the commencement of his Chief Justiceship until the spring of 1801, Lord Eldon had had no other connexion with politics than as an individual member of the House of Peers. But he was now to renew his relations with political life in a higher and more responsible station than ever.

Among all the measures of Mr. Pitt's administration, none was more important than the Union with Ireland. It had been attended with innumerable difficulties, arising from personal interests as well as from national feelings; but a great body of the Irish people had been reconciled to it by the expectation, that a Union between their country and Great Britain would render it practicable, consistently with the safety of the Protestant Church in Ireland, to remove the disabilities of the Roman Catholics. So long as the two kingdoms had distinct legislatures, it was obvious that to open Parliament and Office to the Roman Catholics in Ireland, where they were three-fourths of the constituent body, must be to make the Irish legislature essentially Roman Catholic, and eventually to substitute the Romish for the Protestant Church; and for such a consummation, no British statesman was prepared.

But it was thought that when one common legislature should have been established for both countries, and the Irish nation have become interfused and identified with the British, a new state of things would arise, in which the aggregate majority of the whole empire, being Protestant, would be able effectually to protect the Church and the State against any undue encroachments of the total Roman Catholic minority; and that in such a position of affairs, the laws of exclusion, always invidious and only to be justified by necessity, might safely be exchanged for a more generous and comprehensive policy. These were the opinions of Mr. Pitt, Mr. Windham, Lord Grenville, and some of the ablest among their younger partisans; and the Roman Catholics of Ireland clung closely to the hope which such authority held out. But the King, who regarded the proposed change as likely to injure the Protestant Church and as therefore irreconcilable with his coronation oath, met all the instances of Mr. Pitt with a fixed resistance. It was in vain that Mr. Pitt suggested the introduction of securities. The King was inflexible. The correspondence of George III. with Mr. Pitt on that occasion, published in 1827, by Dr. Philpotts, now Bishop of Exeter, from Lord Kenyon's papers, distinctly and curiously explains the respective views of the King and of the Minister.

"I had very considerable doubt," says Lord Eldon, in his Anecdote Book, "whether the correspondence between King George III. and Mr. Pitt, relative to the Catholic question, before Mr. Pitt quitted office, should have been published by Dr. P., at the instance, or with the consent of Lord Kenyon, in 1827, from

copies of it, which I understood that his father, the Chief Justice, had received from the late King; and I discouraged the intention to publish it, because of that doubt. As, however, others thought it right that it should be published, I think it was, with respect to myself, so far useful, as the matter of that correspondence seems to me to have fully justified what I had so often publicly declared, that Mr. Pitt did not mean to grant what the Roman Catholics wished to obtain, without what he should deem sufficient securities for the Protestants. I had repeatedly publicly stated, that his language to me was, that if their claims were granted, there must be such securities, but that I never could learn what were to be proposed *as* such securities. The published correspondence has stated what are therein mentioned as such securities. They appear to me, though mentioned by that great man, as altogether inadequate. Another proof that the concessions were never to be made without sufficient securities, is, that, in all the Bills, which, during many years, were brought into Parliament for granting the Roman Catholics' claims, provisions were proposed to be enacted as such securities: totally inadequate as securities; but the proposal to enact them is satisfactory to prove, that securities were thought necessary: — at first so thought — long after, and for many years, so thought — and it seems never to have been contended that securities were not necessary, till it was proved that none would be sufficient; and then the advocates for the measure had the hardihood to propose it, without *any* securities, as reasonable. It is not immaterial, or without its being useful, to compare the securities

proposed in Mr. Pitt's correspondence with those proposed in the various bills: and such comparison may satisfy many, that the advocates of the measure never agreed what would or would not be satisfactory securities.

The immovable determination of the King made it necessary, in the judgment of Mr. Pitt, to entreat that his Majesty would permit him to withdraw from the government. The King, in a letter of the 1st of February 1801, one of those published by Dr. Philpotts, remonstrates against such a retirement.

"Though I do not pretend," says the King, "to have the "power of changing Mr. Pitt's opinion, when thus unfortu- "nately fixed, yet I shall hope his sense of duty will prevent "his retiring from his present situation, to the end of my "life; for I can with great truth assert, that I shall, from "public and private considerations, feel great regret, if I shall "ever find myself obliged, at any time, from a sense of re- "ligious and political duty, to yield to his entreaties of retir- "ing from his seat at the Board of Treasury."

Mr. Pitt, however, thought it due to his country and his character, that he should persevere in pressing his resignation; and, on the 10th of March, it was announced in both Houses that his ministry was at an end.

Such was the first great stir of that momentous contest, which now, for more than forty years, in one or other of its forms, or of its consequences, has divided and disturbed the British empire.

To no one individual, so eminently as to Lord Eldon, was owing the long and successful resistance maintained against the Roman Catholic claims. In his deliberate and solemn judgment, the concession of them was fraught with danger to the State and to the

Church. In the no less conscientious belief of other far-sighted statesmen, the only danger was in the postponement of that concession. The measure of relief, the emancipation, has undoubtedly disappointed the hopes of its advocates, and furnished, in the "still vex't" condition of the Irish, a melancholy triumph to its opponents. But those who reason from the event seem not to have sufficiently remembered, that the very point, most enforced by the advocates of the relief, was the peril of a concession that might come too late. Evils have undoubtedly followed, to the full extent of the gravest apprehension; but while one party asserts them to have resulted from precipitate surrender, the other regards them as the consequences of over-protracted resistance. And it must not be forgotten by those who appeal to events, that the conceded franchises were calculated for the old parliamentary state of these kingdoms as they still remained in 1829, and not for the new and unexpected constitution imposed by the Reform Act of 1832. If, instead of being accepted as peace-offerings, those franchises have been grasped as weapons of annoyance, an effect so perverse may perhaps be explained by the undue parliamentary importance, which the near balance of the Conservative and Democratic forces in the newly-modelled House of Commons, and the resulting weakness of the executive government, enabled a small body of Roman Catholics to assume. And thus perhaps, in calmer times, the judgment of the country will pronounce, that not the Relief Act, but the Reform Act, has been the real inlet of danger, to the Protestant church and legislative Union of these realms. To both those experiments Lord Eldon was alike opposed.

CHAPTER XVI.

1801.

LORD LOUGHBOROUGH'S RESIGNATION OF THE GREAT SEAL. — ANECDOTES OF LORD CHIEF JUSTICES DE GREY AND WILLES. — LETTER OF LORD THURLOW TO LORD ELDON. — LORD ELDON RECEIVES THE GREAT SEAL. — THE KING'S BEHAVIOUR, AND LORD ELDON'S MOTIVES FOR RELINQUISHING THE COMMON PLEAS. — RELINQUISHMENT DELAYED BY THE KING'S ILLNESS. — COMPOSITION OF MR. ADDINGTON'S MINISTRY. — LETTER OF THE LORD CHANCELLOR TO MR. SWIRE. — LETTERS OF THE KING TO THE LORD CHANCELLOR, AND OF THE LORD CHANCELLOR TO THE KING. — THE KING'S MALADY: LETTERS OF DRS. JOHN AND THOMAS WILLIS, THE CHANCELLOR, THE PRINCESS ELIZABETH, AND THE KING. — THE CHANCELLOR'S SPEECHES ON A DIVORCE BILL, ON HABEAS CORPUS INDEMNITY BILL, AND ON HOLY ORDERS BILL. — THE KING'S VISIT TO CUFFNELLS: LETTER FROM MR. ROSE. — PATRONAGE: LETTERS OF LORD ELDON TO MR. REAY AND MR. JONES, AND OF LORD NELSON TO LORD ELDON. — NATIONAL DEFENCE: LETTER FROM MR. WINDHAM. — PRELIMINARIES OF PEACE WITH FRANCE.

It had been understood, for several weeks before the announcement of Mr. Pitt's resignation, that Lord Loughborough was about to relinquish the Great Seal, and that Lord Eldon was likely to become Chancellor in his stead. The letter, of which a copy follows, appears to be an answer to some message or inquiry on this subject, from his old friend Lord Kenyon, then Lord Chief Justice of England.

Endorsed, "14th February, 1801.
"Common Pleas."

"Dear Lord Kenyon,

"I feel a good deal of uneasiness to protect myself against the possibility of your Lordship's thinking that I am wanting

in the respect and duty which I owe to you, and which I can truly say has ever been accompanied with the most grateful and affectionate regard. May I therefore be allowed to assure you that, whatever other persons may have thought it becoming to mention in conversation respecting themselves or me, nothing has passed yet with respect to me, that would warrant me, consistently with propriety, in making that communication to you, which it would be my duty to make, as I wish to make it to you, whenever the matter is settled the one way or the other. I can say no more than that there is a probability that I may be compelled to quit this little Court, in which I should have wished to end my days.

"Your obliged and faithful Friend and Servant,

"ELDON."

There was nothing unreasonable in this caution. Strange instances had occurred of disappointments, where the expectant had appeared quite secure of his judicial promotion; and these were probably present to the mind of Lord Eldon; for, among the stories in his Anecdote Book, he has recorded the following illustration of the uncertainties that hover between the cup and the lip of the candidate for the Seals:—

"Lord Walsingham, the son of Lord Chief Justice de Grey, and chairman of the Committees of the House of Lords, told me, that his father, the Chief Justice, gave a dinner to his family and friends, on account of his being to have the Great Seal as Chancellor next morning; but that, in the interim between the dinner and the next morning, Mr. Justice Bathurst, it was determined, should be Chancellor, and received the seal."

Lord Eldon used to tell a somewhat similar story of the offer of the Great Seal to Lord Chief Justice Willes, who declined to accept it without a pension

and a peerage, expecting that he should bring the ministers to his terms.*

Lord Eldon, before his appointment to the Chancellorship was complete, received the following letter from his early friend, Lord Thurlow:—

"My dear Lord,

"Though I don't know the circumstances which induced you to give up the Common Pleas, I have no doubt your decision upon them was guided, as upon all occasions, by wisdom and honour; and I rejoice sincerely in the event. This, you may remember, was my sentiment in the conversation you allude to.†

"But I congratulate still more with the House and the country. Their judgments will be no less illustrated by sound principles and clear deductions, than supported by authority; not let down by unsatisfactory attempts to argue, or shaded by surmises of mean partialities and prejudices.

"If I can shake off this painful disorder, my first exertion will be an endeavour to see you. There is not enough remaining of me to be useful; but I shall take great satisfaction in finding arranged the fundamental principles of that conduct, which is to extricate the present difficulties incurred by the mere want of such principles.

* The late Lord Henley, in his life of his grandfather, Lord Keeper Henley, afterwards Lord Chancellor Northington, relates the circumstances thus: —

"Immediately after Willes had "refused the Seals, Henley (then "Attorney-General) called upon "him at his villa, and found him "walking in his garden, highly "indignant at the affront which "he considered that he had re- "ceived, in an offer so inadequate "to his pretensions. After enter- "ing into some detail of his grie- "vances, he concluded by asking "whether any man of spirit could, "under such circumstances, have "taken the Seals; adding, 'Would "you, Mr. Attorney, have done "so?' Henley, thus appealed to, "gravely told him that it was too "late to enter into such a discus- "sion, as he was then waiting "upon his Lordship to inform him "that he had actually accepted "them.—pp. 34, 35.

† See Chap. X.

"This is the second time, since I came to London, that a fox has scrambled out of the well upon the horns of the same silly goat. In the Seven Years' War, it stood leaping-block to Frederick of Prussia; in this, to Francis of Austria.* *Quousque tandem?*

"I am ever, my dear Lord,
"Your very faithful and affectionate Friend,
"THURLOW."

"Wednesday, 18th Feb. 1801."

On the 23d of March 1801, Sir William Scott was elected member for the University of Oxford, in the room of Mr. Page, who had relinquished his seat from age and increasing infirmities.

Mr. Pitt had resigned the Government on the 10th of the same month; but Lord Loughborough continued to hold the Great Seal till the 14th of April: on which day, (Mr. Addington having meanwhile been installed as first minister,) Lord Eldon, by the King's delivery to him of the Great Seal, became Lord High Chancellor. He one day said to Mr. Farrer, "I "was the King's Lord Chancellor, not the Minister's. "When I was made Chief Justice of the Common "Pleas, the King insisted upon my giving him my "promise, that whenever he called upon me to fulfil "the office of Chancellor, I would do so. He did "call upon me when Addington succeeded Pitt, and "I could not do otherwise than fulfil my promise."

So likewise he told Mrs. Forster, "I was very fond "of the Court of Common Pleas, and never would "have quitted it for the Chancellorship, but my pro-"mise was given."

* This seems to allude to the treaty of Luneville, by which the Emperor Francis had concluded a separate peace with the French Republic, and which bears date on the 9th of February 1801, only nine days before Lord Thurlow's note.

In his Anecdote Book, he thus expresses himself on the same point:—

"Upon the duty of a subject to obey the commands of the King as to accepting office, I have some notions that I believe are much out of fashion. In the year 1801 I became Chancellor, upon the formation of Mr. Addington's administration. I have mentioned the fact as to my undertaking to his Majesty in 1799 with respect to the Chancellorship *, that it may be known to my family, that I was indebted for that office to the King himself, and not, as some supposed, to Mr. Addington, and as some of Mr. Addington's friends supposed; although it is but justice to him to add, that he so conducted himself, in forming his administration, with respect to me, that my feelings towards him were the same as if he had been the instrument by whom the King was prevailed upon to promote me to the office."

More than thirty years afterwards, he said to Mrs. Forster,

"I do not know what made George III. so fond of me; but he *was* fond of me. Did I ever tell you the manner in which he gave me the seals? When I went to him, he had his coat buttoned thus (one or two buttons fastened at the lower part), and putting his right hand within, he drew them out from the left side, saying, 'I give them to you *from my heart.*'"

It seems probable, that the unusual demonstration with which the King accompanied the transfer of the Great Seal to Lord Eldon, may have been partly occasioned by the then unsettled state of the Royal mind: for his Majesty immediately afterwards became so

* See Chap. XV.

seriously indisposed, as to be altogether incompetent to his public duties. This incapacity having become manifest before Lord Eldon had actually vacated the Chief Justiceship of the Common Pleas, his resignation of that office was, for some time, suspended. The suspension is thus explained by him in his Anecdote Book: —

"His Majesty not being able to hold a Council, and his recovery being doubtful, it was not judged fit that the Chief Justiceship of the Common Pleas should be resigned, the offices of Chancellor and Chief Justice being, by law, capable of being held together, and in case his Majesty did not recover, it being thought certain that the Great Seal would be taken from my custody, and that I should not be restored to the Chief Justiceship if I had resigned it. During all the period, therefore, in which his Majesty's indisposition continued, I remained in the very singular situation of a person both Lord Chancellor and Lord Chief Justice of the Common Pleas, exercising publicly the duties of both offices."

Lord Hardwicke, in like manner, had continued, for several months after he received the Great Seal, to hold with it the office of Lord Chief Justice of the King's Bench.* And so, in our own time, when the Melbourne Administration was displaced by King William the Fourth, and a provisional government appointed for transacting the public business, from the beginning of November 1834 until Sir Robert Peel should return from the Continent to arrange the final distribution of the offices of State, Lord Lyndhurst, then Lord Chief Baron of the

* 1 Burr. Sess. Ca. 105.

Exchequer, was entrusted with the Great Seal, and continued to hold it conjointly with the Exchequer, until, on Sir Robert Peel's arrival, he was confirmed as Lord Chancellor, when he vacated the Chief Barony.

The principal colleagues of Lord Eldon, during the administration of which he had now become a leading member, were Mr. Addington, first Lord of the Treasury, — the Duke of Portland, President of the Council, — the Earl of Westmoreland, Lord Privy Seal, — the Earl St. Vincent, First Lord of the Admiralty, — the Earl of Chatham, Master General of the Ordnance, — Lord Hawkesbury, afterwards Earl of Liverpool, Secretary for Foreign Affairs, — the Lords Pelham and Hobart, Secretaries for the Home and Colonial Departments, — and Mr. Yorke, Secretary at War, who, subsequently, became Home Secretary, in the room of Lord Pelham. Lord Castlereagh, who, at the accession of this Ministry, held the office of Chief Secretary for Ireland, soon afterwards entered the Cabinet as President of the Board of Control.

The official announcement, in the Gazette, of Lord Eldon's elevation to the Seals, was received by his fellow-townsmen at Newcastle with general rejoicings. The bells of the churches in that town, and in Gateshead, continued ringing from the arrival of the mail till late in the evening, and numerous parties of the Chancellor's relatives and friends were formed in various parts of the neighbourhood to celebrate the event.*

The franked address of the following letter to the Rev. Samuel Swire, formerly of University College,

* Sykes's Local Records (Newcastle, 1833), vol. ii. p. 6.

bears date on the day next following Lord Eldon's accession to his new dignity.

" London, April 15th, 1801.
Eldon. Rev. S. Swire,
Rector of Melsonby,
Richmond,
Yorkshire."

" My dear Swire,

" Yesterday, and not before yesterday, I received the Great Seal. Though very, very sensible of your kindness to me, I thought it premature sooner to answer your letter. Whether this be for good, is in the counsels of Providence. I state myself with a seriousness so real, and with feelings which form such a weight upon my mind, that I trust at least I am prepared for a conscientious and most anxious discharge of my duty, whether it shall please God that I am called upon to discharge it for a longer or a shorter period. I hope in God I do not deceive myself when I confide in the review of my past life, that it affords nothing to tarnish a situation, which, though the highest attainable in my profession, is a base one when not attained by such means as are consistent with the principles of honour, morality, and religion.

" God bless you; I am hurried and nervous. I am sure you will find me in this, and in every situation of life,

" Yours, cordially and affectionately,

" ELDON.

" My compliments to Miss S. and Mrs. H. I do assure the latter I am at this moment as grave as she could wish me to be."

On the day of the date of this letter, the 15th of April 1801, Lord Eldon took his seat in the Court of Chancery, and held the first General Seal before Easter term. During the whole of that term he still continued to discharge the duties both of Lord Chancellor and of Lord Chief Justice of the Common Pleas. It was not until the Easter vacation, on the 21st of

May, that he resigned this latter office. He was succeeded in it by Sir Richard Pepper Arden, who was thereupon raised to the peerage by the title of Lord Alvanley. The Chancellor had held the Seals but a day or two, before he gladdened the heart of his old preceptor, Mr. Moises, by appointing him to be one of his chaplains.

One of the first letters received by Lord Eldon from the King evinces the kind feeling which his Majesty bore to him:—

King George III. to Lord Eldon.

"Kew, April 29th, 1801.
"— past One, P.M.

"On returning from walking, the King has found *his* Lord Chancellor's letter, and desires the Commission, for passing the bills now ready for his assent, may, if possible, be sent this evening to the Duke of Portland's office, from whence it will be forwarded early to-morrow morning. His Majesty is pleased at finding the Bill against Seditious Meetings got through the House of Lords yesterday with so little trouble. The King would by no means have wished that his Lord Chancellor should have omitted sitting in the Court of Chancery to-morrow, for the mere matter of form of bringing himself the Commission, as his Majesty is so fully convinced of the satisfaction the suitors must feel at that court being presided by a person of real integrity, talents, legal knowledge, and good temper. He cannot but add having felt some pleasure at hearing, that the Lord Chancellor sat the other day on the Woolsack between Rosslyn* and Thurlow, who ever used to require an intermediate power to keep them from quarrelling. How soon will the shins of Pepper permit him to take the coif?

"GEORGE R."

* Lord Loughborough had been created Earl of Rosslyn a few days before the date of this letter.

George III., in the course of this spring, gave a fresh proof of his personal esteem for Lord Eldon, by appointing him one of the trustees of certain property belonging to his Majesty. This honour was thus acknowledged: —

Lord Eldon to King George III.

"May 5th, 1801. 9 A.M.

"The Lord Chancellor, tendering to your Majesty his most humble duty, offers also Lord Kenyon's, Sir John Mitford's, and his own most grateful acknowledgments, for the testimony of regard, which they learn from the communication transmitted through Mr. Strong, it is your Majesty's gracious purpose to bestow, by appointing them trustees of part of your Majesty's property. They all hope that your Majesty will find, in a conscientious discharge of their duty as such, a proof of their earnest anxiety to manifest their gratitude.

"Your Majesty's Chancellor presumes to add, that, highly as he should have thought himself honoured, under any circumstances, by such a testimony of your Majesty's regard, he cannot but feel particular satisfaction in being associated in this trust with persons, whose advice and assistance he knows to be highly valuable: with one, from whom, in the course of his professional life, he has received marks of kindness almost parental, and with another, with whom he has long lived in habits of brotherly regard, and of both of whom he can most truly represent to your Majesty, that, in private life as well as in public, their conduct has been uniformly and strongly marked by a dutiful, anxious, affectionate, and loyal attachment to your Majesty."

It was about this time that a conversation occurred, which in the lately published Memoirs of Mr. Wilberforce, is thus recorded from the diary kept by the latter*: —

* Life of Wilberforce, vol. iii. p. 9.

"Saw Lord Eldon, and had a long talk with him on the best mode of study and discipline, for the young Grants to be lawyers. The Chancellor's reply was not encouraging: 'I know no rule to give them, but that they must make up 'their minds, to live like a hermit and work like a horse.' Eldon had just received the Great Seal, and I expressed my fears that they were bringing the King into public too soon after his late indisposition. 'You shall judge for yourself,' he answered, 'from what passed between us when I kissed 'hands on my appointment. The King had been conversing 'with me, and when I was about to retire, he said, "Give '"my remembrance to Lady Eldon." I acknowledged his 'condescension, and intimated that I was ignorant of Lady 'Eldon's claim to such a notice. "Yes, yes," he answered, "I '"know how much I owe to Lady Eldon; I know that you '"would have made yourself a country curate, and that she '"has made you my Lord Chancellor."'"

The King's indisposition, though now sufficiently abated to leave him competent to his ordinary functions, was not so effectually removed but that, in a short time afterwards, it became the subject of renewed anxiety to the Ministers. Among the principal causes of his excitement were the distressing differences in progress between the Prince and Princess of Wales, which then related chiefly to the custody and education of their daughter, the Princess Charlotte. The following letters and extracts of letters to the Chancellor have some interest, as showing, authentically and at the moment, the working of the King's mind, and the embarrassments occasioned by his malady to the Royal Family, and to the Government.

The first is from Dr. John Willis, one of the physicians then attendant on his Majesty:—

" My Lord, " May 16th, 1801.

" We have not seen the King better than this morning. Your Lordship's conversations with his Majesty have not hitherto produced all the effect we wish. He seems rather to select and turn any part to his purpose, than to his good. The Council, he tells us, you propose to be in London. Of course, we wish much that your Lordship should see the King again soon — that every means possible should be used to reconcile his Majesty to the present control. For, till a consciousness of the necessity of temperance arises in his own mind, it is absolutely necessary to have resort to artificial prudence. I have the honour to be,

" Your Lordship's

" Obedient humble servant,

" J. WILLIS."

Mr. Addington to Lord Eldon.

" My dear Lord, " Downing Street, 21st May, 1801.

" I came so late from Kew, and was so hurried afterwards till half past twelve, when I went to bed, that it was not possible for me yesterday to write to you, as I wished and intended. During a quiet conversation of an hour and a half, there was not a sentiment, a word, a look, or a gesture, that I could have wished different from what it was; — and yet my apprehensions, I must own to you, predominate. The wheel is likely to turn with an increasing velocity, (as I cannot help fearing,) and if so, it will very soon become unmanageable. God grant that I may be mistaken! We have, however, done our best. The Council, as your Lordship has probably been apprised by Mr. Fawkener, is to be held at the Queen's house at one.

" Ever sincerely yours,

" HENRY ADDINGTON."

The next letter is from the Rev. Dr. Thomas Willis, a clergyman of the same family with the physicians of that name: —

" My Lord, " Kew House, May 25th, 1801.

" Dr. John (Willis) is riding with the King, but we conferred together before he set out, and he desired that I would write the letter, which your Lordship had requested to have this morning.

" The general impression yesterday, from the King's composure and quietness, was that he was very well. There was an exception to this in the Duke of Clarence, who dined here. ' He pitied the Family, for he saw something in the King, that convinced him that he must soon be confined again.'

" This morning I walked with his Majesty, who was in a perfectly composed and quiet state. He told me, with great seeming satisfaction, that he had had a most charming night, ' but one sleep from eleven to half after four;' when, alas! he had but three hours' sleep in the night, which, upon the whole, was passed in restlessness, in getting out of bed, opening the shutters, in praying at times violently, and in making such remarks as betray a consciousness in him of his own situation, but which are evidently made for the purpose of concealing it from the Queen. He frequently called out, ' I am now perfectly well, and my Queen, my Queen has saved me.' Whilst I state these particulars to your Lordship, I must beg to remind you how much afraid the Queen is, lest she should be committed to him; for the King has sworn he will never forgive her if she relates any thing that passes in the night.

" The only thing that he has repeated of your Lordship's conversation is, that you told him to keep himself quiet. He certainly intends going to Windsor to-morrow morning early for the day. Had not your Lordship, therefore, better write to his Majesty, that you had proposed, agreeably to his permission, to have paid your duty to him to-morrow, but that you understand he is going to Windsor, — where you may endeavour to fix your audience for Wednesday?

" It is too evident, my Lord, that it cannot be proper, since it cannot be safe, for the King to go to Weymouth so soon as he intends. Your Lordship will therefore, no doubt,

think it requisite to take steps to prevent it as soon as possible. I have the honour to be,

"Your Lordship's

"Most obedient servant,

"THOS. WILLIS."

It seems to have been in consequence of this letter, that the Lord Chancellor wrote to the King as follows:—

(Latter part of May, 1801.)

"The Lord Chancellor, offering his most humble duty to your Majesty, presumes to submit to your Majesty's most gracious consideration, that it appears to him that great difficulties may arise in matters of public concern, if your Majesty should be pleased, during the time of the sitting of Parliament, which he conceives cannot now be long, to remove to any considerable distance from Parliament. It cannot but happen that before Parliament can be closed, some intelligence should be received from abroad, upon which it may be absolutely necessary to learn promptly, and perhaps instantly, your Majesty's pleasure, and to learn it by communications more ample than your Majesty could possibly allow to your servants, if they were not personally attending, in the discharge of their duty, upon your Majesty. Communications, in the form of messages to Parliament not admitting of delay, may also become necessary. Impressed at this moment with a deep sense that it is extremely important on all accounts to your Majesty's welfare, that your Majesty should be graciously pleased to secure to your servants the means of personally communicating with your Majesty, at least during the short interval which must elapse before Parliament separates, at the close of which they may, in obedience to your Majesty's commands, attend your Majesty anywhere, the Lord Chancellor ventures to hope that your Majesty will not think it inconsistent with his duty, that he should have most humbly, but most earnestly, submitted to your Majesty the expression of his conscientious conviction upon this subject.

"The Lord Chancellor also requests your Majesty's gra-

cious permission to introduce to your Majesty the Master of the Rolls and the Solicitor-General previous to your Majesty's birth-day. As Tuesday is the seal-day in your Majesty's Court of Chancery, your Majesty may probably have the goodness to give that permission on Wednesday."

From this letter it will be perceived that the King, though still under occasional excitement, was not considered by his servants to be unfit for his ordinary public duties. On the 31st of May, he answers the Lord Chancellor's representation, with his own hand, in these terms:—

King George III. to Lord Eldon.

"Kew, May 31st, 1801.

"The King cannot allow any difficulty to stand in the way of his doing what may be most useful to the public service. He will, therefore, postpone his journey to Weymouth till the close of the session of Parliament, relying that the Lord Chancellor and Mr. Addington will bring it as soon as possible to a conclusion. He will not, therefore, change any arrangement for removing the things necessary to be sent to Weymouth, but he and his family will remain at hand till that period. His Majesty will be glad to receive at the Queen's Palace the Master of the Rolls and Solicitor-General on Wednesday, any time after one, that may best suit the Lord Chancellor; when he hopes to hear who may be most eligible to be appointed Solicitor-General to the Queen.

"GEORGE R."

The state of the King's health, as well as the confidence placed by the Royal Family in Lord Eldon, will be still further understood from a few extracts of letters, written by the late Landgravine of Hesse Homberg, then Princess Elizabeth, and addressed, it should seem, to the Rev. Dr. Willis, by whom they appear to have been forwarded to the Chancellor.

After the lapse of forty years and the death of almost all the parties interested, there is very little in this correspondence which may not fitly enter into general history. That little, though of a character which does high honour to the feelings of the illustrious lady who wrote it, is withheld, as relating to points of private confidence.

The Princess Elizabeth to the Rev. Dr. Thomas Willis.
(Extract.)

"June 6th, 1801.

"After receiving one note you will be surprised at this: but second thoughts are sometimes best: besides which, I am commanded by the Queen to inform you by letter how much this subject of the Princess is still in the King's mind, to a degree that is distressing, from the unfortunate situation of the family; and Mama is of opinion that the Lord Chancellor should be informed of it, as he has mentioned the subject to Mr. Dundas to-day. The Queen commands me to add, that if you could see her heart, you would see that she is guided by every principle of justice, and with a most fervent wish that the dear King may do nothing to form a breach between him and the Prince,—for she really lives in dread of it; for, from the moment my Brother comes into the room till the instant he quits it, there is nothing that is not kind that the King does not do by him. This is so different to his manner when *well*, and his ideas concerning the child so extraordinary, that, to own to you the truth, I am not astonished at Mama's uneasiness. She took courage and told the King, that now my Brother was quiet, he had better leave him so, as he never had forbid the Princess seeing the child when she pleased; to which he answered, 'that does not signify; the Princess shall have her child, and I will speak to Mr. Wyatt about the building of the wing to her present house.' You know full well how speedily every thing is *now ordered* and done. In short, what Mama wishes is, that you would inform the Lord Chancellor that his assistance is much wanted in preventing the King doing any thing that shall hurt him. The Princess spoke to me on the conversation the King had had with her, expressed

her distress, and I told her how right she was in not answering, as I feared the King's intentions, though most kindly meant, might serve to hurt and injure her in the world. I hope I was not wrong, but I am always afraid when she speaks to me on such unfortunate subjects. I think the King heated and fatigued, which I am not surprised at, not having been one minute quiet the whole day. I assure you it is a very great trial, the anxiety we must go through; but we trust in God, — therefore we hope for the best.

"Your friend,

"ELIZABETH."

The Princess Elizabeth, probably to the Rev. Dr. Thomas Willis.

(Extract.)

"June 9th, 1801.

"I am but just come into my room, where I found your very comfortable letter, which I return you many thanks for. I had promised Mama to tell you, &c.

* * * * *

"She commands me to say to you that she wishes the Lord Chancellor would show Mr. Addington, that, as the King is contented with it, that he had better not hurry our going, as he is so much better, that there is hope that in gaining strength it will ensure us from having a relapse, which you may easily believe is her earnest and daily prayer. He has been very quiet, very heavy, and very sleepy, all the evening, and has said two or three times, yesterday was too much for him. God grant that his eyes may soon open, and that he may see his real and true friends in their true colours. How it grieves one to see so fine a character clouded by complaint! but He who inflicted it may dispel it, so I hope all will soon be well.

"Your friend,

"ELIZABETH."

The Princess Elizabeth, probably to the Rev. Dr. Thomas Willis.

"June 12th, 1801.

"I have the pleasure of saying, yesterday was a very good day, though the sleepiness continues to a great degree. I am

told the night has been tolerable, but he has got up in his usual way, which is very vexatious. I am commanded by the Queen to desire you will say every thing from her to the Lord Chancellor, and thank him in the strongest terms for the interest he has taken in her distress. She so entirely builds her faith on him, that she doubts not his succeeding in every thing with his Majesty, who, to say true, greatly wants the advice of so good a friend and so good a head. How providential is it that he is, thank God, placed where one can know his worth! I have just seen Brown, who is very well satisfied: this morning therefore I trust all is going on well, though I feel that there is still fear.

"Your friend,

"ELIZABETH.

"I assure you we are not a little thankful to you for all the trouble you take for us."

The Rev. Dr. Thomas Willis to the Lord Chancellor.

"Kew Green, June 16th, 1801.

"My Lord, "Eight o'Clock, P. M.

"Dr. John, who has not seen the King, will bring this to town. I have nothing to say that is, in truth, very favourable. His Majesty rode out this morning at ten o'clock, and did not return till four: he paid a visit in the course of the day to Mr. Dundas. His attendants thought him much hurried, and so think his pages. He has a great thirst upon him, and his family are in great fear. His Majesty still talks much of his prudence, but he shows none. His body, mind, and tongue, are all upon the stretch every minute; and the manner in which he is now expending money in various ways, which is so unlike him when well, all evince that he is not so right as he should be.

"My Lord,

"Your Lordship's most obedient Servant,

"THOMAS WILLIS."

The disorder, however, took so favourable a turn, that in very few days more the King's recovery was pronounced to be complete. The Lord Chancellor, anxious, on every account, to guard against its recur-

rence, then ventured to address his Majesty in a letter recommending that the attendance of Dr. Robert Willis should still be continued. This eminent physician, as well as his relatives, Drs. John and Thomas Willis, had bestowed particular attention upon disorders of the mind; and the care and skill of them all had been united to effect the recovery of the King. But his Majesty retained an unconquerable dislike to their presence; partly, no doubt, from painful associations, and partly perhaps from a feeling, that so long as he should be attended by any medical man peculiarly practised in cases of mental alienation, he would be tacitly acknowledging the continuance of some unsoundness in his intellect. His answer to the Lord Chancellor, however, is altogether free from any morbid taint: —

King George III. to the Lord Chancellor.

"Kew, June 21st, 1801.

"The King would not do justice to the feelings of his heart, if he an instant delayed expressing his conviction of the attachment the Lord Chancellor bears him, of which the letter now before him is a fresh proof; but, at the same time, he cannot but in the strongest manner decline the idea of having Dr. Robert Willis about him. The line of practice followed with great credit by that gentleman renders it incompatible with the King's feelings that he should, now by the goodness of Divine Providence restored to reason, consult a person of that description. His Majesty is perfectly satisfied with the zeal and attention of Dr. Gisborne, in whose absence he will consult Sir Francis Millman; but cannot bear the idea of consulting any of the Willis family, though he shall ever respect the character and conduct of Dr. Robert Willis. No person, that ever has had a nervous fever, can bear to continue the physician employed on the occasion; and this holds much more so, in the calamitous one that has so

long confined the King; but of which he is now completely recovered.

"GEORGE R."

Again, two days afterwards: —

"Kew, June 23d, 1801.

"The King is much pleased with the whole contents of the Lord Chancellor's letter, and returns the Commission, having signed it, for passing the Bills now ready for the Royal assent. He cannot avoid adding, as he knows it will give pleasure to the person to whom it is addressed, that appetite and good sleep is perfectly, by the goodness of Divine Providence, restored; and that no degree of attention shall be wanting to keep those necessary assistants of perfect health.

"GEORGE R."

The first speech made by Lord Eldon in the House of Lords as Chancellor, of which any report has been published*, was on the occasion of a divorce bill, applied for by a wife against her husband: —

Lord Thurlow insisted, that the very special nature of the circumstances in this case would warrant the House in departing from their usual rule, which is, that a divorce *a vinculo matrimonii* shall not be granted on the application of the wife.

The Lord Chancellor said, he had at first been for adhering to that rule, but was induced, by Lord Thurlow's argument, to agree that this particular case might be properly exempted from it. At the same time, he must retain his opinion, that, in general, the application of a wife for a divorce, on the ground of her husband's adultery, ought, for the sake of securing the morals of the public, to be resisted and refused. It was to be considered, that adultery committed by a wife, and adultery committed by her husband, were widely different in their consequences. The adultery of a wife might impose a spurious issue upon the husband, which he might be called

* Parl. Hist. 1801, May 20th.

upon to dedicate a part of his fortune to educate and provide for; whereas no such injustice could result to his wife from the adultery of a married man; and in many cases, not only a reconciliation might be brought about, but it became the especial duty of a wife to forgive her husband's misconduct, from motives of tenderness and concern to the interests of his innocent children.

In this month of May, a bill was introduced into Parliament, and enacted as the 41st of Geo. 3. c. 66., having for its object to indemnify those who had acted in the detention of persons suspected of treasonable practices during the several suspensions of the Habeas Corpus Act. The necessity of this bill was expressed in its preamble, by a recital that the detaining parties would have no defence against actions by the parties detained, without a disclosure of the means by which the traitorous designs of the latter had been discovered, which means it was necessary to keep secret for the further prevention of similar practices. On the order for the second reading in the House of Lords *,

The Lord Chancellor, in supporting the measure, said it was one of his earliest maxims in politics, that political liberty could not be durable, unless the system of its administration permitted it to be occasionally parted with, in order to secure it for ever. When it was otherwise, liberty contained the seeds of its own destruction. With respect to the consideration of necessity, he was aware that it was often the plea of tyrants; yet it was that consideration on which the most moderate men, when they took prudence for their guide, must sometimes act. In all periods of our history, their Lordships would find that the benefits of the Habeas Corpus Act were occasionally relinquished; but the suspension of the Habeas Corpus Act did not take away the respon-

* Parl. Hist. 1801, June 19.

sibility of ministers. There were cases in which, if a minister did not act, he would deserve to lose his head. Such, for instance, and he stated no hypothetical case, was the occasion of ambassadors passing from Ireland through England to France, and *vice versâ*, for purposes of a treasonable nature. In such a case, where the information was such as could not be doubted, if a minister refused to act, what would he not deserve? And yet such a person could not be indemnified for his conduct, without such a bill as that before their Lordships.

The next subject on which Lord Eldon appears, from the Parliamentary History, to have addressed the House of Lords in this first session of his chancellorship, was that of the bill declaring persons in holy orders disqualified to sit in the House of Commons. The entrance of the Rev. John Horne Tooke into that assembly had been the proximate cause of the bill, which the Lord Chancellor now supported on the ground that holy orders are indelible. In affirmance of this principle he adduced much learning and authority.*

The Session closed on the 2nd of July, the King's speech being delivered by the Lord Chancellor.

The Royal excursion to Weymouth, of which the King had spoken in his letter of the 31st of May, took place at the close of June; and their Majesties, in travelling through Hampshire, paid a visit at Cuffnells, the seat of the Right Honourable George Rose. From Cuffnells the King writes to the Chancellor on the 1st of July, announcing the continued improvement of his health. On the some day, Mr. Rose sends to Lord Eldon his own account of the King's bodily state, an account which shows that the

* Parl. Hist. 1801, June 15.—Stat. 41 Geo. 3. c. 63.

honour of the Royal visit had no small alloy of uneasiness for the host: —

"My dear Lord, "Cuffnells (Wednesday), July 1st, 1801.

"His Majesty came down here, most perfectly well, on Monday, about three o'clock, without the slightest appearance of fatigue from his journey, walked about a little in the afternoon, and rested extremely well at night. Yesterday he rode to Walhampton to dine with Sir Harry Neale (a visit settled some weeks ago), and passed through Lymington. Unfortunately, a heavy shower fell while his Majesty was on the road, about a mile and a half short of this place. No entreaties could prevail with him to put on a great coat, and he was wet through before he reached the town hall, where he remained about three quarters of an hour, speaking to the mayor and several gentlemen. He then went on to Sir Harry Neale's, and dined without changing his clothes; then rode back here, and was again wet, but changed his dress as soon as he got in. There is no describing the uneasiness I felt at his Majesty keeping on his wet clothes, because I recollect Mr. Pitt telling me that his first illness, in 1788, was supposed to be brought on by the same thing; but there was no possible means of preventing it. The exercise, too, must have been, I fear, too much after the disuse of riding for some time. His Majesty intends going to Southampton (ten miles) on horseback to-day, and returning to dinner. I mention these circumstances to your Lordship, deriving some relief to my own mind from it, without a hope of your being able to take any *immediate* step in concert with Mr. Addington or others of his Majesty's servants, but trusting that it may induce your Lordship to make as early a visit to Weymouth as possible.

"His Majesty had taken a determination to go by sea from Lymington to Weymouth, if it should be found practicable; the first of which places is considerably within the Needles, and their Majesties and the Royal Family would have had four miles to go, in a boat, from the town to where the yachts are; nor could it be known, till they got there, whether the wind would be such as to ensure their making a quiet pas-

sage to Weymouth. I therefore have ventured to suggest their Majesties breakfasting at my cottage, near Christ Church, on Friday morning. If, when they get there, the wind is fair, and the weather fine, they can embark easily, as the yachts will be within half a mile of the cottage. If the wind shall not be fair, horses will be ready at Christ Church (which is entirely in the road), and at the other stages, to carry their Majesties and the Royal Family to Weymouth.—Sir Harry Neale and Captain Gray think *that*, beyond all comparison, a better place than the embarkation from Lymington. The run from Christ Church to Weymouth, with a fair wind, is not more than four, five, or six hours.

"Your Lordship will, I am sure, forgive me for troubling you with all these particulars, and will attribute my doing so to the true motive.

"I can add nothing to the entreaties I have already used, that you will come here, if you can, when you come westward.

"Ever, my dear Lord,

"Most truly yours,

"GEORGE ROSE.

"We are returned from Southampton. All remarkably well with the King: he has not suffered, in the smallest degree, from yesterday's business. His Majesty was delighted with his reception at Southampton."

In the course of this summer, Lord Eldon had the opportunity of offering some substantial preferment in the church to his old master, and to his old master's son. Mr. Moises, in a letter dated 6th July 1801, accepts very gratefully this kindness for his son, but says as to himself,

"I must be permitted to think that I shall be better entitled to your favourable opinion — shall certainly act in a manner more becoming my great age — to decline any distinctions of increased wealth or consequence. * *

* * * * * *

I live in a constant expectation of my discharge."

Another example of Lord Eldon's abiding attachment to his early friends will be found in the following extracts from a letter of his to Mr. Reay: —

"London, September 8th, 1801.

"Before I say a word about other matters, let me heave one sigh over James Wilkinson! It was but yesterday that we three were engaged in the follies of childhood, and the sports of youth. The period, which has since passed, seems short, — how short, in all probability, must that appear then, which is yet to pass before we shall be gathered together again.

"And now, as I know you take an interest in what concerns me, and in what I think about what concerns me, allow me to say, I left the Common Pleas with inexpressible regret. I there sat in an honourable, independent, and reasonably profitable situation for life, with employment for life, probably neither too much nor too little. Of politics I had had more than enough before I got there. No man, therefore, ever said "Nolo episcopari" with more sincerity than I did, when I was called upon to accept an office, which plunged me again into politics, into a state of dependence, — and overwhelming me with business at this moment, exposes me, at the next moment, for the remainder of my life, to be turned into a situation of useless and listless inactivity. I did not, however, think myself at liberty, and I *could* not think myself at liberty, to disobey the King's personal commands: but I assure you, that I have not increased my comfort or my happiness. I must, however, do the best I can. Among others of the *little* unpleasantnesses, one is, that I bid fair to be confined in town for the whole summer. I went to Weymouth, meaning to make a little stay, but was called back again in three days.

"And now, as to the learned clerks, whom you mention to me. I looked to it, certainly, as one great comfort, that I might gratify those I love, by doing some good to those that they esteem. But I have greatly over-rated this matter. In the first place, I have been very unlucky; for the gentlemen who labour to consign others to immortality, seem to cling themselves most amazingly to this mortal world, and the

rarity with which I have had vacancies of livings is really remarkable: certainly not in the proportion of one to a dozen, I believe, throughout all Lord Rosslyn's time. In a word, with the exception of a trifling thing, which I gave to Charles Stoddart, whom you may remember, and the living I have given to Moises, I have yet presented to none really given by myself. From persons great and small, I have, nevertheless, had, I think I may almost say, thousands of applications, most of them impudently framed, in effect, upon some such notion as that I cannot myself have in the world a clergyman that I can have any personal wishes in favour of, or a friend who has in any clergyman a friend in whose welfare he takes an interest. Many of these applications, however, come from persons whose weight throws much difficulty in my way, and more than I can easily remove. Besides this, in confidence be it spoken, the different branches of the Royal Family communicate their wishes, which are commands, that supersede even promises to others; and upon the whole, I do assure you I have little elbow room. I will not say a word more to you, than that I wish well to all to whom you wish well. I have solemnly vowed that I will make no promise to any body, or use expressions tantamount to it. The case of Mr. A——, and others in the same situation, have driven me to this. A Chancellor, the creature of a day, makes promises: he does not remain Chancellor till he can execute them. If his successor pays any attention to them, he can give nothing to any body to whom he is himself attached: if he does not, he is racked by the reflections he has upon the hardships, in which those who received such promises are accidentally involved. I have felt myself so much about this, that I have determined my successor shall never feel as I have felt. I can only say, therefore, that your good wishes must have weight with me. Don't take it ill that I say no more. I am acting upon a general principle, and I am sure I only do myself justice, when I call upon you to assure yourself that it is not inconsistent with the most cordial and unabated friendship towards you."

Lord Chancellor Eldon to William Jones, Esq.

(Without date, but written probably about 1801.)

* * * * * *

"The anxiety with which you express yourself in the promotion of Lady Orkney's wishes, is very far from being unacceptable to me. I take leave, however, to represent to you that, if Taplow becomes vacant, it will not be possible for me to gratify her Ladyship's wishes. I regret it upon other accounts; but I never have admitted any pretension founded upon the proprietorship of the parish; for that, besides other mischiefs attending it, is in fact making the Crown a mere trustee of its advowsons for every considerable family in the kingdom."

* * * * * *

Patronage, the main topic of the last two letters, seems to have been the subject also of a little correspondence with Lord Nelson, in whose handwriting the following brief but cordial note has been found among Lord Eldon's papers: —

Lord Nelson to Lord Eldon.

"My Lord, "Amazon, Sept. 17th, 1801.

"I feel very much obliged by your open and very handsome answer to my request, which so exactly accords with what my friend Davison told me of your Lordship's character; and allow me to consider myself, in every respect,

"Your most obliged,

"NELSON AND BRONTÉ."

This letter was probably written from the Downs, whither Lord Nelson had returned after his attacks upon Boulogne. Our Southern coast was at that time threatened with immediate invasion from France; but the danger was disregarded by the generality of the English people, whose confidence in their naval de-

fenders induced them to make very light of all such menaces. To men of better information, the grounds of alarm appeared more serious: as will be seen from the following letter addressed to Lord Eldon by Mr. Windham, who, though he had quitted the Government with Mr. Pitt, was at no time disposed to withhold any aid he could contribute to the defence or service of his country.

"Pall Mall, No. 167.

"My dear Lord, "Sunday Evening, 20th (Sept. 1801).

"My two visits to-day to your house, which might seem to imply somewhat important, had no other object (nor need they indeed to have more, had I any thing material to say upon the subject) than to talk of the prospect, which I understand you now generally suppose to exist, of an immediate invasion of these kingdoms. At Weymouth, you might have observed, we did not much trouble ourselves with these apprehensions; and in fact the country in general seems to enjoy the most enviable state of tranquillity upon this head. It would be cruel to interrupt this dream of security, if it were not to be feared that this dream of security might chance to terminate, if left to its own course, in such a reality of danger as the country might never recover from. I have no difficulty in saying, that if the attempt at invasion is made, and that we do not look sharp, and employ, to the very utmost advantage, the miserably scanty means which we possess, the country may be lost before we well know where we are. It really drives one wild to see the senseless, unmeaning, unreflecting confidence, which, now and at other times, has been felt upon this subject, and the neglect, in consequence, of the means which are necessary to give us even an equal chance of escaping. I cannot allow myself to begin upon this subject, which would carry me infinitely too far; but I do conjure you, my dear Lord, not to give in to this fatal confidence, so contrary to the opinions of all those who are best qualified to judge; nor to think, that if this invasion is actually coming, one moment is to be lost in providing every means that skill, pru-

dence, energy, vigilance, foresight, can permit, to guard against its effects. I include in this description many more things than I am sure have been done or are doing. With all that can be done, unless chance very much befriends us, the event may be such as no man can contemplate without horror. There are some few inconsiderable things, which have occurred to me, as capable of being done immediately, and that might be useful; but it is unnecessary to state them, as I have already mentioned them in conversation with Lord Pelham.

"With all my dread of invasion, I hope you do not suppose me to consider the dangers of invasion as by any means equal to those of peace. A man may escape a pistol, however near his head, but not a dose of poison. If I am not mistaken, you do not very materially differ from me in this opinion.

"Yours ever, my dear Lord,

"With great truth,

"W. WINDHAM."

The necessity, however, for the precautions here recommended, was shortly afterwards dispelled by the very event which Mr. Windham was most earnestly deprecating, — a peace between England and France.

Lord Eldon to Sir William Scott. — (Extract.)

"October 2d, 1801.

"The preliminaries of Peace with France were signed last night. The terms, I understand, I am not at liberty to mention. With my head and heart so full as they have been, for ten days past, I have felt, most deeply, the want of such a friend as you here. I am perhaps, at this moment, one of the most anxious of mankind. I think, upon the whole, the Peace, as to its terms, not objectionable, if we could forget the damnable principles upon which France has acted and may continue to act. You would excuse a great deal upon all subjects, if you knew the state of mind I am in.

"Ever yours, affectionately,

"ELDON."

On this measure the opinions of the most eminent statesmen were by no means unanimous. Some members, even of the Cabinet, among whom Lord Eldon may be included, appear to have considered it rather as an unavoidable, than as a desirable adjustment. He defended it in the House of Lords, both in the debate of the 3rd November 1801 upon the preliminaries, and in the debate of the 13th of the following May upon the Definitive Treaty.

CHAPTER XVII.

1801—1803.

LORD ELDON APPOINTED STEWARD OF THE UNIVERSITY OF OXFORD. — LETTER OF GEORGE III. — RECORDER'S REPORT. — SPEECHES ON PEACE OF AMIENS AND CONVENTION WITH RUSSIA. — LETTER ON PATRONAGE FROM THE FIRST LORD MELVILLE. — GEORGE THE THIRD'S VIEW OF A SPEAKER'S DUTY. — DEATH OF LORD KENYON. — LETTERS OF GEORGE III. — LABOURS OF THE CHANCELLOR. — LETTER OF THE FIRST LORD LIVERPOOL ON THE TREATMENT OF ALIENS. — MORE LETTERS OF GEORGE III. — TERMINATION OF PEACE WITH FRANCE.

On the 24th of July 1801, a vacancy occurred in the High Stewardship of the University of Oxford, by the death of William, Earl of Dartmouth. The present Earl of Eldon says: —

"The appointment, unlike the case of Cambridge, where the Senate elect this officer, is vested in the Chancellor of Oxford, subject to the approval of Convocation; and, accordingly, on the 18th of September, the Duke of Portland conferred this office on Lord Eldon; who, on the 15th of October, received from the Convocation the diploma of Doctor in Civil Law."

Lord Eldon appears to have expressed, to the Duke of Portland, some anxiety to know whether his thanks to the University must be returned in Latin, and to have prepared himself for that task with the assistance of Sir William Scott, who had a remarkable felicity in Latin composition.

Lord Eldon to Sir William Scott.—(Extract.)

"Dear Brother, "Monday (19th October, 1801).

"On Saturday night I received a diploma from the Chancellor, Masters, and Scholars of Oxford, conferring the degree of Doctor of Laws. I understand that a bit of Latin answer must be sent; and I humbly pray two sentences from your pen. I will call to-morrow morning.

"The thing I have received is short. It states my being exalted to the most grave office of Seneschal: that I am '*vir egregius*,' and one of whom they make much, '*magni facimus*,' as having consecrated my youth among them to '*literis, virtuti, pietati*;' and afterwards, betaking myself to the study of the Law, they say I had gained the '*primariam laudem*' of '*diligentiæ, probitatis, et judicii*;' and that, having always favoured them and their interests, they hold me '*in deliciis*,' and therefore they give me this, their highest honour. This is the sum total. Pray, pray, give me two sentences, thanking them, and assuring them, that to the best of that *judgment* (the talent they are pleased to allow me) I wish to dedicate my old age, with *diligentia*, and more of it than adorned my *adolescentia*, to '*literis, virtuti, probitati, et pietati*,' and their interests."

The Duke of Portland, however, being of opinion that no Latin was necessary on this occasion, wrote to Lord Eldon the following letter; which has some political as well as academical and personal interest, the Duke then filling the high office of President of the Council, and confidentially addressing the Lord Chancellor as his colleague:—

"Bulstrode,

"My dear Lord, "Wednesday, October 21st, 1801.

"I strongly incline to be of opinion that no expectation has ever been conceived by the University, of receiving your thanks in a Latin epistle; and I cannot help inferring, from the Vice-chancellor's desiring that I will let him know that I had complied with the wishes of the University in delivering

you the diploma, that a letter from you to me, acknowledging the receipt of it, which may be communicated to the Convocation, is all that is looked for or desired. However, if your Lordship chooses to express your sentiments to the University in the Latin language, either by letter, or a speech when you are admitted to the office of Steward, or in both ways, there cannot be any impropriety in it; and as I very sincerely trust that I shall never again exercise my privilege of appointing a steward of the University, if you have any wish to write or speak Latin, I do not feel sufficiently interested about your successor to trouble myself much about the embarrassment this precedent may occasion him.

"There is another subject, which I must beg to mention to you in confidence, about which, you will allow me to say, I feel considerably more concerned than respecting that which I have just quitted. I mean the indifference, or, to speak more properly, the indisposition at least of Lord Rosslyn, to approve the terms of peace, and to attend the meeting of Parliament, with regard to both which I know he has said that he knew nothing but what he had read in the newspapers or Gazette, and that he had had but too much time to *reflect in solitude* upon the unpleasant events of the present period. To you, my dear Lord, who, I believe, as well as myself, do not entertain much more sanguine or comfortable prospects than Lord Rosslyn of the actual state of things, but feel that every exertion must be made to prevent as much as possible the evils which cannot but be apprehended from them, it will appear no less desirable than it does to me, that the most perfect means should be taken to put an end to the sort of language which is held by Lord Rosslyn, and to remove from him all cause of complaint upon the ground of want of attention, or shyness, on the part of those who compose the Administration. It is my intention to suggest to Lord Pelham, to whom I suppose it is left to do that part of the House of Lords' business, and *perhaps* to Lord Hawkesbury, to write privately upon these subjects to Lord Rosslyn; and I hope you will excuse my taking the liberty of submitting to you the good effects which I conceive may arise from your writing to him also. With permission, I cannot help thinking that

the station you hold gives you a peculiar title to communicate and consult with him, and I am persuaded that he would be much gratified by it. Was he in town I certainly would, and if he comes I will most assuredly not fail to converse with him again and again upon these subjects; but, considering my present situation, I do not feel that I can do it in writing to any good purpose; and excuse me for adding, that I am very anxious that the suggestion I have ventured to throw out respecting Lord Rosslyn may be approved and adopted by you.

"I am ever, my dear Lord,

"Most sincerely yours,

"PORTLAND."

In accordance with the commencement of the foregoing letter, Lord Eldon's answer to the University, which duly expressed his thanks and his sense of the honour conferred upon him, was written in English. It bears date on the 22nd of October 1801, and is recorded on the register of the Convocation.

To the office of High Steward is attached an annual stipend of 5*l.* Every four years, when this amounted to 20*l.*, Lord Eldon presented the accumulation to the Radcliffe Infirmary, under the designation of "An Unknown Benefactor."

George III. seldom lost an occasion of countenancing those political principles which he regarded as the best security of his throne, and those public men by whom such principles were honestly upheld. In the election of a Lord Mayor he took sufficient interest, to accompany his ratification of it with a special letter to the Chancellor: —

King George III. to Lord Eldon.

"Windsor, October 25th, 1801.

"The King has only this morning received the Lord Chancellor's note of the 23rd, on his being in the course of

this week to receive a deputation from the City of London, to introduce Sir James Eamer as the proposed Lord Mayor for the ensuing year.

"The King certainly can with great propriety authorise the Lord Chancellor to give an approbation to this choice; that alderman having uniformly conducted himself as a loyal subject and diligent magistrate. Such men are peculiarly suited for the present year, when, by the embarrassed situation from the trial of peace with a turbulent and revolutionary republic, every attention of the police must be exerted to avoid the dangers and difficulties that may otherwise ensue; but the King trusts, if a most respectable peace establishment be kept up, and the act against seditious meetings, and the Alien Bill be continued, that the experiment may not be attended with all the evils that some persons might expect.

"GEORGE R."

One of the heaviest responsibilities of the Chancellor, in Lord Eldon's time, was to examine the Recorder's report of the sentences passed on criminals convicted at the Old Bailey. "I was exceedingly shocked," said Lord Eldon to Mrs. Forster, "the first time I attended to hear the Recorder's report, at the careless manner in which, as it appeared to me, it was conducted. We were called upon to decide on sentences, affecting no less than the *lives* of men, and yet there was nothing laid before us, to enable us to judge whether there had or had not been any extenuating circumstances; it was merely a recapitulation of the judge's opinion, and the sentence. I resolved that I never would attend another report, without having read and duly considered the whole of the evidence of each case, and I never did. It was a considerable labour in addition to my other duties, but it is now a comfort to reflect

that I did do so, and that in consequence I saved the lives of several individuals."

"They used formerly to hang for street robberies. That was a time when hanging was more in fashion than it is now. In one of the Recorder's reports, there was one man condemned for a robbery in Bedford Square. The King, George III., consulted his council whether this man's sentence should be executed, and all the ministers except one advised that it should. 'I observe,' said the King, 'that Lord Eldon has not 'yet spoken; what says he?' I answered, 'I will tell 'your Majesty my opinion: it has been the custom 'to hang for street robberies, and a very bad crime it 'is; but I think a distinction might fairly be made 'between those cases which are attended by personal 'violence, and those which are not; therefore, as this 'man did not use any violence, I differ from the other 'Lords, and think he is not an improper object for 'your Majesty's clemency.' 'Well, well,' said the King, 'since the learned judge *who lives in* Bedford 'Square, does not think there is any great harm 'in robberies there, the poor fellow shall *not* be 'hanged.'"

His Majesty opened the Session in person on the 29th of October; and on the 3rd of November, a debate arising in the House of Lords, on the preliminaries of the peace with France,

The Lord Chancellor, in answer to Lord Grenville, who had expressed his disapproval of the proposed terms, declared his own persuasion that the war had been carried on until any farther proceeding in it had become hopeless. But it had accomplished the direct object for which it was undertaken, that of repressing the principles and practices of those who had combined for the overthrow of the British Consti-

tution. There were some who thought it behoved us to persevere until the ancient monarchy of France should be restored; but, without inquiring how far that was a desirable object, he would ask how far, and by what means, it was a practicable one. It could be attempted only through a great coalition of the European powers; and such a coalition, when it had existed, had been able to do nothing. He dealt in detail with many of the intended stipulations; and expressed his opinion that there was now a better chance for a peace which should be permanent, than in 1797 when the late ministers negotiated with France.

The Convention with Russia gave rise in the House of Lords to another debate, in which the Lord Chancellor took part, answering, at considerable length, the attack of Lord Grenville upon that measure. The Chancellor's speech, as reported in the Parliamentary History, 13th November 1801, contains some important reasonings upon the right of belligerents to search the vessels of neutrals. He sums up the result of the Convention by stating,

> That the nation had gained the great objects for which they contended, viz. that free bottoms did not make free goods; that ships of war had the right of search; that the blockade of ports should be recognised as legitimate; that the exercise of these rights should be regulated upon clear, intelligible, and liberal rules; and, which was of more consequence than all, that any casual violation of them should not be a cause of quarrel, but should be the subject of amicable adjustment.

A great deal of the Lord Chancellor's correspondence turns necessarily upon matters of patronage. The succeeding extracts, from a letter written to him by the first Lord Melville, contain some suggestions which all Governments may usefully bear in mind:—

"My dear Lord, "Edinburgh, Dec. 11th, 1810.

"When we parted in London, I promised to write to you on the subject of the Scotch Judge.

"In consequence of communications with your predecessor, founded on the opinions of the then Lord Advocate and Lord President, it was pretty much understood, that till Mr. Blair should signify his acquiescence of going to the Bench, the persons next to be looked at were Mr. Alexander Frazer Tytler, Mr. William Robertson, and Mr. David Hume. I have mentioned them according to their seniority at the Bar. They are all respectable men, and what is never to be forgot in this part of the kingdom, they have been *uniformly* pure in their political principles, during the last eventful ten years in which we have lived. I particularly mention this last circumstance, because it has been lately rumoured to me, that some very violent spirits, professing themselves converts, have lately been attempting to bring themselves forward with a view to judicial situations. I trust no such attempts will be successful; for if they are, the country will justly be disgusted, and the general strength of the King's government much impaired.

"Your obedient and faithful servant,

"HENRY DUNDAS."

In February, 1802, Sir John Mitford, who had succeeded Lord Eldon as Attorney-General, and had afterwards, on Mr. Addington's succession to the head of the Government, been elected to the Chair of the House of Commons, was appointed Lord Chancellor of Ireland, and raised to the peerage with the title of Baron Redesdale. At the levee, at which he was presented on the occasion of this promotion, Lord Eldon expressed his strong sense of Lord Redesdale's merits, saying to Mr. Henry Legge, "That is the greatest boon that has been conferred on Ireland." Sir John Mitford was succeeded as Speaker by Mr. Abbot,

afterwards Lord Colchester, of whose election the King thus expressed his approval:—

King George III. to Lord Eldon.

"Queen's Palace, Feb. 11th, 1802.

"The King returns to the Lord Chancellor the Commission for assenting to the choice the House of Commons has made of Mr. Abbot as their Speaker, which he has just signed; and trusts that this gentleman will feel the propriety of following the line of conduct his two predecessors have chalked out, and not attempt novelties, which seldom succeed in the transaction of public business, and ought to be reprobated unless the old mode has been proved faulty.

"GEORGE R."

This is a characteristic note. In truth George III. was a minute observer of the qualifications and conduct of all persons holding responsible positions. Thus, though not himself a man of literary taste, he was vastly critical upon any deficiency of classical attainment in a leading lawyer or physician. Among the stories told by himself to Lord Eldon, there is one, from the Anecdote Book (Chap. XLI.), about a medical Baronet, which illustrates this turn of the King's mind: and it is further exemplified in another passage from the same book, as follows:—

When I was made Chief Justice of the Common Pleas, George III., on my kissing hands, said to me, 'If you talk Latin when on the Bench, let it be more classical than ———'s. You had better speak English only, than his Latin.'—Upon my carrying to his Majesty, upon some Judge's appointment, the ring, which, previous to his appointment as a Judge (upon being made Serjeant), he gives the Chancellor to be tendered to his Majesty, the King, upon reading the

inscription upon the ring, said, '*This* Judge *may* talk Latin. I see he reads Horace.'"

In the month of April died Lord Kenyon, the Lord Chief Justice of England, one of the oldest friends of Lord Eldon, who, speaking to the present Lord Kenyon, said, "If I had to write your father's epitaph, I should describe him '*justissimus unus,—et servantissimus æqui.*'" Lord Eldon's regard for the father was continued to the son; who, at the end of a note communicating to the writer of this memoir the tribute thus paid by Lord Eldon to the character of the Lord Chief Justice, adds, "You may estimate his kind feelings towards me when I tell you, that on the morning of my quitting Encombe with my daughter, and asking him how he was that day, he said, 'Pretty well,

'Quanquam digressu veteris confusus amici.'"

The Chief Justiceship, made vacant by Lord Kenyon's death, was conferred upon the Attorney-General, Sir Edward Law, who was created Lord Ellenborough; and the Attorney-Generalship devolved upon the Solicitor-General, the Honourable Spencer Perceval. The King, after subscribing the warrants for the two official appointments, returned them to the Lord Chancellor, with these notes:—

King George III. to Lord Eldon.

"Windsor, April 11th, 1802.

"The King, at the same time that he returns to the Lord Chancellor the two warrants which he has signed, appointing Sir Edward Law a Serjeant and Chief Justice of the King's Bench, whose appointment he trusts will be the most eligible, cannot refrain from expressing much sorrow at the loss of so excellent a judge as the late Lord Kenyon, and knows the Lord Chancellor concurs in the same sentiment.

"The King hopes the Lord Chancellor is now getting rid of the gout, and that by the close of the holidays his health will be perfectly restored.

"GEORGE R."

King George III. to Lord Eldon.

"Windsor, April 14th, 1802.

"The King returns the warrant he has signed, directing the warrant for the promotion of the Solicitor-General to the office of Attorney-General. He should have thought it highly advantageous to the said gentleman if he could have remained in his former situation a few years; but on the present vacancy, it would have been highly improper to have placed any one, though a senior at the Bar, over his head.

"GEORGE R."

The following day again brought a note from the King to the Chancellor, who, through gout and fatigue, was labouring under considerable indisposition. This note, and another written a few days afterwards, are inserted as indicative of the interest which the Sovereign continued to feel and express in the welfare of his distinguished adviser.

King George III. to Lord Eldon.

"Windsor, April 15th, 1802.

"The King returns the Commission for passing the Bills this day to the Lord Chancellor, having signed it. He at the same time expresses a most sincere wish that the recess may be crowned with the restoration of the Lord Chancellor's health, and strongly recommends that he will not, at first coming out, be quite so assiduous as he was in business before his confinement, to which he rather attributes the duration of the fit of the gout.

"GEORGE R."

King George III. to Lord Eldon.

"Queen's Palace, April 30th, 1802.

"The King returns to the Lord Chancellor the Commission, which he has signed, for giving his assent to the Bills

now prepared for that purpose. At the same time the King avails himself of the opportunity to express the satisfaction he receives from the assurance of the Lord Chancellor's gout having entirely subsided. That a degree of lameness and weakness still remains is the natural effect of the disorder, but will daily diminish; and the King therefore strongly recommends to the Lord Chancellor the not coming next Wednesday to St. James's, but the coming here on Thursday for the Recorder's report, which will avoid the necessity of going up stairs; and Wednesday is the first day of Term, which must in itself be a day of some fatigue.

"GEORGE R."

On the 4th of May 1802, Lord Eldon was appointed a Governor of the Charter House, in the room of Lord Kenyon, by an instrument under the seal of the Charter House, and the hands and seals of six Governors.

The definitive treaty of peace with France was discussed in the House of Lords on the 13th of May, when Lord Eldon again spoke in its defence.

He said that he did not mean to represent this peace as a glorious one for England; but he trusted that, candidly viewed, it would be found to be as good a peace as was attainable in reference to all the circumstances of it. He then discussed and combated the objections made by preceding speakers to the details of the treaty.

This must have been the speech to which Lord Eldon was referring, when he said to Mrs. Forster a year or two before his death,—

"After all, Mary, I think I am wonderful, considering how much I have gone through; for mine has been no easy life. I will tell you what once happened to me. I was ill with the gout; it was in my feet, so I was carried into my carriage, and from it I

was carried into my Court. There I remained all the day, and delivered an arduous judgment. In the evening I was carried straight from my Court to the House of Lords: there I sat until two o'clock in the morning, when some of the Lords came and whispered to me that I was expected to speak. I told them I really could not, I was ill, and I could not stand; but they still urged, and at last I hobbled, in some way or other, with their assistance, to the place from which I usually addressed the House. It was an important question, the peace of Amiens:—I forgot my gout and spoke for two hours. Well, the House broke up, I was carried home, and at six in the morning I prepared to go to bed. My poor left leg had just got in, when I recollected I had important papers to look over, and that I had not had time to examine them; so I pulled my poor left leg out of bed, put on my clothes, and went to my study. I did examine the papers; they related to the Recorder's report, which had to be heard that day; I was again carried into Court, where I had to deliver another arduous judgment, again went to the House of Lords, and it was not till the middle of the second night that I got into bed. These are hard trials to a man's constitution."

This little narrative still further and more strongly, although but incidentally, evinces the anxious vigilance of Lord Eldon respecting capital convictions.

Political affairs wore now a serene aspect, and, except the discussions on the treaty of peace, there was no public matter of any considerable interest. On the 28th of June, the session was closed by a speech from his Majesty in person, and on the fol-

lowing day the first parliament of the United Kingdom was dissolved.

The valuable living of Foston, which is in the gift of the Great Seal, becoming vacant about this time, was offered by the Chancellor to his old friend Mr. Swire. Nothing can better prove how well he deserved such a preferment, than the reasons he gave for declining it.

Mr. Swire to Lord Eldon.—(Extract.)

"My Lord, "Melsonby, Aug. 3rd, 1802.

"I am wholly at a loss for words to express the obligation I feel myself under, for your abundant kindness and goodness to me. The very gracious and flattering manner in which you have made me the offer of a very valuable living has almost overpowered me. I was not surprised that you should think of an old friend, but I could hardly expect that you should be so attentive to him as you have been. What return can I make for this mark of your esteem for me?—none, but saying from my heart that I sincerely thank you. Till I was favoured with your Lordship's letter, I did not know there was such a place as Foston upon earth: I was equally ignorant about Kirkby-Underdale: nor do I know the names of any livings in your patronage as Chancellor, except Middleton-Tyas and Barningham:—so little self-interest had I in so anxiously wishing to see you promoted to the high and honourable office you now hold. I have looked into Bacon's 'Liber Regis,' and Jefferys's map of this county, and, by their united help, I have found out Foston; and I think I have discovered that its distance from Melsonby is more than is allowed by law, and but just so. However, I am so desirous of preserving my peace of mind, that I will make no undue stretch; and therefore I must on that score refuse your gracious offer. Indeed, had it been within the permitted distance, I should have wished to have declined the acceptance of your favour, unless it had been considerably nearer to this place than it is: for I could not have been happy

to possess a living, where I could not frequently have performed some of the important duties of a Priest. I can truly say with Dr. Johnson, that *I cannot think of shearing the sheep which I cannot feed.*"

A note from George III. addressed to the Chancellor, who this year extended his sittings in Lincoln's Inn Hall to the latter part of August, attests the constant zeal of his Majesty for the Protestant church:—

King George III. to Lord Eldon.

"Weymouth, August 14th, 1802.

"Yesterday the King received the Lord Chancellor's letter. He trusts that the fatigue of sitting in this warm weather in Lincoln's Inn Hall has not proved so inconvenient as might have been expected. The King is much pleased at Dr. Ridley's being placed in the Isle of Wight. His being of the family of so celebrated a man as the Bishop that bore that name, in addition to his connection with the Lord Chancellor, very properly entitle him to that situation.

"GEORGE R."

The condition and legal rights of foreigners residing in England, with reference particularly to the consular government then recently established in France, had become, in this year, a matter of some embarrassment to Ministers. The following letter to Lord Eldon from the first Earl of Liverpool, the father of the nobleman who was so long first minister of the Crown, throws some useful light upon the general and often recurring question of the country's rights and duties as to aliens:—

"My dear Lord, "Addiscombe Place, August 24th, 1802.

"By a paper I received yesterday from my son, I find it is the opinion of his Majesty's servants, that the Alien Act will

not authorise them to send the French emigrants, or any foreigners, out of this country, unless they are supposed to be dangerous, from their conduct or political principles, to the internal tranquillity of this kingdom. I do not mean to contend against so high authority, with respect to the construction that is to be given to this law. I was not present at any of the meetings, or in Parliament, when it was under contemplation; and it is possible that the motive for passing it was principally that before stated; and yet, if such is the true interpretation of this law, I do not see by what legal authority you can oblige these emigrants to leave the kingdom, or even to reside in any particular part of it, with a view of preventing any intercourse they may carry on, which may give just offence to neighbouring governments. If you had a right of sending them out of the kingdom, you might certainly require, as a condition for permission to remain in it, that they should confine their residence to some particular county or district. I am sensible that several of them receive pensions; and that you may annex as a condition on which alone they shall continue to receive these pensions, that they shall reside where you please to direct. But I confess I feel that this sort of compulsion has something ungenerous in it: and I should not like to rest my power and influence over these unhappy men singly on this circumstance. Besides, a great number of them do not receive pensions; and these are of the most dangerous description; they live by their wits, that is, by inventing and propagating reports, offensive to that government which has driven them out of their country; and it is to these that we must ascribe the unpleasant discussion, in which we are at present engaged with the French government. I observe, however, that it is the intention of his Majesty's Ministers to exercise some sort of police over these French emigrants, and yet I cannot conceive on what legal authority such exercise can be founded or justified; so that the determination taken by his Majesty's Ministers appears to me, in its different parts, to be contradictory and inconsistent with itself.

If I had been able to come to town and return again the same day, I would have waited on your Lordship to talk to

you on this important subject, for I am certain the business now under consideration will not end without some serious consequences, and that it will ultimately be an object of discussion in the two Houses of Parliament. It behoves us, therefore, to found our measures, and every step that we may take, on principles that we can fully justify to the people of this country, and to the rest of mankind. It appears to me that the First Consul is *really mad*, and that the French emigrants are on the other hand *foolish*. They are the true parties in this business; but this country will suffer, and never be at rest till the contest is at an end.

"I have the pleasure to tell you that my general health is tolerably good. True it is I am weak, but my trunk does not appear as yet to have any mortal disease, though my arms and legs, that is, my branches, are withered.

"I hope your Lordship will excuse the trouble which I now give you; but as the principal point of this letter relates to the exercise of legal authority, on which your Lordship is the best judge, I could not deny myself the satisfaction of writing it to you.

"I am, with the sincerest regard,
"My dear Lord,
"Your faithful humble servant,
"LIVERPOOL."

The two following notes from the King to Lord Eldon furnish further illustrations of his Majesty's anxious and minute attention to those matters of public business which had to pass through his hands:—

King George III. to Lord Eldon.—(Extract.)

"Windsor, Nov. 13th, 1802.

"The King returns the Commission for opening the Parliament, which he has signed. Having had the curiosity of reading the Commission, have found a mistake, the insertion of George Earl of Leicester, instead of William Earl of Dartmouth, as Lord Steward of the Household, which can

easily be corrected by the Lord Chancellor ordering this change of names, though the King has signed the Commission.

"GEORGE R."

King George III. to Lord Eldon.—(Extract.)

"Windsor, Dec. 29th, 1802.

"The King returns the Commission, having signed it. He trusts the Bill of Inquiry into the Civil Departments of the Navy is materially amended by the alterations effected by the Lord Chancellor, and that the evils are obviated which might easily have arisen from so delicate a business being framed by gentlemen of the navy, instead of those conversant, from education as well as practice, in the nature of the laws of this kingdom.

"GEORGE R."

The newly-elected Parliament which had been opened by the King in person on the 23d of November, continued its sitting till Christmas. On the 15th of December, in a debate on the malt tax, the Earl of Suffolk, while he praised the existing Government, imputed much blame to the antecedent Ministry for their whole conduct of the war, and particularly for having confined, during long periods, persons whom they suspected of treasonable practices, but whom they never brought to trial. Upon this the Lord Chancellor, with great warmth, declared that

He would sooner suffer death upon the spot, than hear the conduct of the late Administration aspersed, in this respect, without confutation. If they were criminal in this, he was as criminal as they: and the only reason why a different policy now prevailed was, that the circumstances of the country were now different. He vindicated the conduct of the war, and the arrangement of the peace.

When Parliament re-assembled after the vacation, the Ministers proposed and carried a continuance of the act of 1797, by which the Bank of England had been restricted from paying its notes in specie. On that subject Lord Eldon received this letter from the King:—

King George III to Lord Eldon.

"Windsor, Feb. 27th, 1803.

"The King has, with great satisfaction, signed the Commission for passing the Bill to restrain the Bank of England from paying cash, as he is convinced of the utility of the measure, and ardently hopes it may be prolonged the next year; or, if the situation of public affairs should at that time prove more favourable, that the Bank will at least be restrained from paying cash above a certain proportion of each payment it may have to issue.

"GEORGE R."

The Ministers now found themselves perplexed by an extensive military preparation in the ports of France and Holland, ostensibly directed to colonial objects, but obviously suggesting the necessity of practical measures for the defence of the British islands. A message from the Crown on this important subject was delivered to both Houses of Parliament on the 8th of March; and on the 16th of May another message announced the termination of all pacific relations between England and France, and the mutual recall of their ambassadors. These events having been foreseen for several months, the Ministry, who seem to have been conscious that they were not of a constitution for warlike undertakings, made overtures to obtain the assistance of Mr. Pitt; but he, though not unwilling to lend his aid for the con-

struction of such a government as would be, in his judgment, a really efficient one, showed no disposition to resume office as a mere prop to the existing Ministry. The negotiation therefore terminated abruptly, and without practical results; and Mr. Addington was still first Minister, when the session of Parliament terminated on the 12th of August 1803.

CHAPTER XVIII.

1803, 1804.

DISTURBANCES IN IRELAND. — VOLUNTEERS. — RELAPSE OF GEORGE III. : INQUIRIES IN THE HOUSE OF LORDS : PERSONAL COMMUNICATIONS OF THE CHANCELLOR WITH THE KING : EXTRACTS FROM THE CHANCELLOR'S PRIVATE MINUTES OF THE EXAMINATIONS OF THE KING'S PHYSICIANS : TREATMENT OF THE KING : HIS CONDUCT DURING HIS ILLNESS. — DEBATES ON VOLUNTEER FORCE : COURTEOUS RETORT UPON LORD SPENCER. — LORD ELDON'S DEFENCE OF LAW OFFICERS : OF LORD CHANCELLOR REDESDALE. — OFFERS OF SERVICE FROM IRISH MILITIA. — LETTERS FROM LORD CHANCELLOR REDESDALE ON THE STATE AND GOVERNMENT OF IRELAND.

MEANWHILE, in Ireland, occurrences had taken place, which evinced but too plainly that the temper of that country had been either additionally heated, or, at least, not effectually cooled, by the Union with Great Britain. In the counties of Limerick, Tipperary, and Waterford, disturbances of more than ordinary violence had broken out, which, however, being mostly of an agrarian rather than of a political character, had been put down in the January of this year, by a special Commission for the instant trial of the insurgents. But as the differences between England and France became wider, the French began to avail themselves of the unquiet spirit of the Irish people, with the purpose of inveigling them into a movement for a forcible severance of the Union. Animated by the hope of French assistance, a young gentleman, named Robert Emmett, made an attempt,

on the 23d of July 1803, at the head of an undisciplined force, to seize the City and Castle of Dublin. The outbreak was speedily suppressed by two small parties of the 21st regiment; but not till after Lord Kilwarden, the Chief Justice of Ireland, had been dragged from his carriage, and murdered in the street. On the 28th, a message from his Majesty was brought down to both Houses, notifying that a spirit of insurrection had manifested itself in Ireland, and recommending to Parliament the adoption of measures for its suppression. On the same evening, two Bills were introduced into the House of Commons, one for enabling the Lord Lieutenant of Ireland to try by martial law any prisoners who should be taken there in rebellion; and the other for suspending the Habeas Corpus Act in that kingdom. Both Bills passed through all their stages in the Lower House before ten o'clock, and were taken at once to the House of Lords, where they were carried through all their stages before eleven, the Lord Chancellor and Lord Rosslyn agreeing that the standing orders, which require distinct days for certain steps of every bill, might be properly suspended, as they had been in former cases of emergency.—The King prorogued Parliament from the Throne on the 12th of August.

On the 22nd of November, 1803, when his Majesty in person opened the next Session, the Irish insurrection formed one of the topics of the Royal speech: and early in December, fresh bills were introduced for continuing the enactments of the preceding July. The new bills having passed the House of Commons, and been once read in the House of Lords, the second

reading of them there, on the 12th of December, gave rise to a discussion, in which the Lord Chancellor took a prominent part, enforcing these measures on account of the necessity of the case, and the uncertainty of the extent to which the mischief might have secretly reached. Both bills were passed.

The threat of invasion had very generally roused the country, and volunteers were now enrolled, to the number of 300,000 men. Talking of them to Mrs. Forster, in his after life, Lord Eldon said:—

"We had a meeting of the Ministers, at the time of the French threat of invasion, to consider the propriety of allowing of volunteer regiments: and the Ministers avowed that they were afraid of incurring such an expense. When I had to give my opinion, I said, 'Do as you please, but if these men do not volunteer for you, they will against you.' The volunteers saved the country: Buonaparte acknowledged it. I think the finest sight I ever beheld was the great review in Hyde Park before the King, George the Third. The King, in passing, addressed Tom Erskine who was colonel, asking him the name of his corps. He answered, 'The Devil's Own.' The Lincoln's Inn Volunteers always went by the name of the Devil's Invincibles.

Parliament having re-assembled after the Christmas recess, a bill was introduced by Government in the beginning of February 1804, for consolidating and amending the various laws relating to the corps of volunteers. While this bill was pending in the House of Commons, the public became aware that the King's mind was again in a disturbed state. On the 27th of February, the order of the day being moved for the

second reading of the bill, some discussion arose about His Majesty's competency to discharge the public business. The inquiries of the Opposition were answered by a guarded assurance from Mr. Addington, that "there was not, at that time, any "necessary suspension of such Royal functions as it "might be necessary for his Majesty then to dis-"charge." On the 1st of March, the same subject was mooted in the Upper House by Lord King, and met by Lord Hawkesbury with a like assurance. The fact appears to have been, that the King, at that time, was in an excited and hurried state, but was not so far disordered as to be unfit for transacting formal business, which was all that the public occasions just then required him to go through. Lord King having intimated that a full explanation was especially to be expected from the Lord Chancellor, by reason of the peculiar responsibility arising from his position and official relation to the Sovereign,

Lord Eldon assured the House that he had considered, and deeply, his duty at this trying crisis. He was aware that while he was bound, on the one hand, to keep constantly in view what was due from him in point of delicacy to his Sovereign, on the other he ought never to forget that he had a duty to perform to the legislature and the public. Anxious that there should be no misapprehension, he declared that at that moment there was no suspension of the Royal functions.

On the 9th of March, the Royal assent being about to be given by Commission to several Bills, the inquiries as to his Majesty's state of health were renewed by Lord Fitzwilliam, who observed that the reports of the physicians did not appear to hold out hopes of a speedy recovery, and added that his doubts

were such as induced him to call upon the Lord Chancellor for further information.

Lord Eldon stated, that in this momentous matter he had proceeded not only with deliberation and caution, but even with fear and trembling; that not satisfied with the reports and assurances of the medical attendants, he had thought it right to obtain a personal interview with the Sovereign; and that at that interview, due discussion had taken place as to the Bills offered for the Royal assent, which had thereupon been fully expressed. "I would sooner," said he, "suffer my right "hand to be severed from my body, than act in such an "instance upon light or superficial grounds; and I have no "hesitation to aver, that the result of all which took place on "the occasion amply justifies me in announcing his Majesty's "assent to the Bills specified in the Royal Commission. I "know and feel with gratitude my obligations to the best of "Sovereigns, and to his person I bear the warmest affection. "But I can most conscientiously say, that no considerations "whatever, not even those to which I have alluded, shall ever "induce me to break that sacred covenant which I have made "with myself, not to suffer that any thing shall warp my "judgment, or bear me from the rule of strict duty and recti-"tude. I am fully aware of the high responsibility under "which I stand, and with reference to which I act on this "occasion."

The interview with the King, which is referred to in this explanation, had taken place on the morning of the same day. Lord Eldon has left this record of it in his Anecdote Book:—

"During one of his Majesty's indispositions, and when there was a doubt whether he was sufficiently recovered to make it fit to take his Royal Sign Manual to a Commission for passing Acts of Parliament, the time approached, when, if the Mutiny Bills were not renewed and passed, the establishments of the army and navy, in the midst of war,

must have broken up. It became, therefore, absolutely necessary to have his Royal Sign Manual to acts for continuing those establishments. The Chancellor is the minister responsible for that. I waited upon his Majesty, and carried with me the Commission, and a brief abstract of the several intended acts, but in much more of detail than the previous statements made upon such occasions. I began reading that abstract, — a caution not usual when the King was well; and he said, 'My Lord, you are cautious.' I entreated his Majesty to allow *that*, under the then circumstances. 'Oh!' he said, 'you are certainly right in that, but you should be correct as well as cautious.' I said I was not conscious that I was not correct. 'No,' said he, 'you are not; for if you will look into the Commission which you have brought me to sign, you will see that I there state that I have fully considered the bills proposed to receive my Sign Manual; to be correct, therefore, I should have *the bills* to peruse and consider.' I stated to him that he never had had the bills whilst I had been Chancellor, and that I did not know that he had *ever* had the bills. He said, during a part of his reign he had always had them until Lord Thurlow had ceased to bring them; and the expression his Majesty used was, that Lord Thurlow had said it was nonsense his giving himself the trouble to read them. I said his Majesty had satisfied me that I had used caution enough, took the Sign Manual, and went to the House of Lords; and, when about passing the Commission, Lord Fitzwilliam rose and said, 'I wish to ask whether the Chancellor declares 'his Majesty is equal to the act of signing the Com-

'mission with full knowledge upon the subject,' or to that effect. I answered, 'Your Lordship will see the 'Commission executed immediately.'

"I have committed this to paper, having been much abused on account of this transaction, and for the purpose of stating that it was my determination, if I thought his Majesty sufficiently well as an individual to give his assent, to take the Royal Sign Manual to the Commission, and execute it without making any observation; if, on the other hand, I did not think him so well as an individual, — inasmuch as the competency of the King, as King, was what the law authorised me to consider as belonging to him, notwithstanding his indisposition, I determined to take the Royal Sign Manual to the Commission, and, after executing it, to state to the House in what condition of his Majesty I had taken this step, and to throw myself on Parliament's consideration of my case, and my having so acted, in order, in a most perilous period, to prevent the establishments necessary for the defence, and indeed the existence, of the country, from going to pieces.

"Many thought I acted too boldly in this proceeding; but I could not bring myself to think that I ought to countenance the notion that the King's state of mind, considering him as an individual, was such as I in my conscience did not believe it to be; and I did think that it was my duty to expose myself to all that might happen, rather than give a false impression of the actual state of my Sovereign and royal Master to his people.

"God grant that no future Chancellor may go through the same distressing scenes, or be exposed to

the dangerous responsibility which I went through and was exposed to, during the indispositions of my Sovereign! My own attachment to him supported me through those scenes. Such and so cordial was the love and affection his people bore to him, that a servant, meaning well and placed amidst great difficulties, would have been pardoned for much, if he had had occasion for indemnity.

"When I went to take the King's Sign Manual, some other ministers wanted it in their department. They sent the papers to me instead of coming themselves to support me by their acts. I refused to tender any of them to the King."

The Cabinet, of course, had, from time to time, continued their examinations of the physicians. The extracts which follow are from private minutes, in Lord Eldon's own handwriting, of the examinations of 27th February and 5th March 1804.

27th February 1804.

The Chancellor having intimated that he should not think it his duty to take the King's Sign Manual without ascertaining that his Majesty understood the effect of the instrument to which his Sign Manual was required:—

Q. Are his Majesty's physicians of opinion that he is competent to do an act, with respect to which it would be necessary for the Chancellor, previous to his Majesty's doing the act, to receive such satisfaction?

A. We think him perfectly competent to do an act so explained and understood.

Q. Are you prepared to express an opinion of the probable duration of the King's illness?

A. by Sir Lucas Pepys.—My opinion is that it will not be of long duration.

* * * * * *

By Dr. Simmons.—I think there is every reason to

believe it will be of short duration, particularly if his Majesty is not too soon hurried with company and business. I think him perfectly competent to business as before described, at present.

Q. In qualifying your opinion as to the nature of the business which his Majesty might be called upon to execute, did you mean to express a doubt of his Majesty's capacity to exercise his judgment, at this time, upon such points as might be submitted to him, or your opinion of the expediency of resorting to him to perform any acts *except* such as have been described in the former question?

A. I think his Majesty is perfectly competent; but if the point led to long argument or fatiguing discussion, I think the experiment would be imprudent.

All the physicians entirely concur with Dr. S.

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5th March 1804.

Q. His Majesty having transacted business with his Parliament since his illness by Commission and Message, do his Majesty's physicians *continue* to think that his Majesty is able to transact business with his Parliament, in like manner, by Commission and Message, in the exercise of a sufficient and unrestrained judgment?

A. The physicians are of opinion that his Majesty is fully competent to transact business with his Parliament by Commission and Message.

The next two extracts are from Lord Eldon's Anecdote Book:—

"In one of his Majesty George III.'s illnesses" (1804) "when he was at Buckingham House, it was conceived to be my duty as Chancellor to call at that house every day. This was constantly done, to the interruption of the business of my Court to a great extent, for which the public opinion made no allowance. Upon one day when I went to make my call of duty, Dr. Simmons, the medical attendant constantly there,

represented to me the embarrassment he was exposed to, being persuaded that if his Majesty could have a walk frequently round the garden behind the house it would be of the most essential benefit to him; that, if he took his walk with the doctor, or any of his attendants, he was overlooked from the windows of Grosvenor Place, and reports were circulated very contrary to the truth respecting his Majesty's mental health; that, on the other hand, his Majesty's family were afraid of accompanying him; and that he, the doctor, did not know how to act, as the walk was of vast importance to his Majesty's recovery. It was to me plain that he wished that I should offer to attend his Majesty, and walk with him in the garden. I offered to do so if he thought it likely to be useful to the King. He then went into the next room, where the King was, and I heard him say, 'Sir, the Chancellor is come to take a walk with your Majesty, if your Majesty pleases to allow it.' 'With all my heart,' I overheard the king say, and he called for his hat and cane. We walked two or three times round Buckingham House gardens. There was at first a momentary hurry and incoherence in his Majesty's talk, but this did not endure two minutes; during the rest of the walk there was not the slightest aberration in his Majesty's conversation, and he gave me the history of every administration in his reign. When we returned into the house, his Majesty, laying down his hat and cane, placed his head upon my shoulder, and burst into tears; and, after recovering himself, bowed me out of the room in his usual manner. Dr. Simmons told me afterwards that this had been of infinite use towards his recovery. It is a curious

circumstance that, walking down St. James's Park after I left Buckingham House, I found that it had been asserted, that in that very morning his Majesty had been seen walking round the Buckingham House gardens, and that he was so very furious that the attendants employed by Dr. Simmons had been obliged by violence to carry him into the house. This was one of the falsehoods, which, for political purposes, were constantly fabricated about the poor King. Simmons assured me that there was not the semblance of truth in it.

"When he was recovering, but not entirely recovered, upon my visiting him, as I did every morning, he took out a watch from a drawer, and said he had worn it for twenty years, and desired me to accept it and wear it for his sake. I declined to accept it. At first he was extremely angry, and asked with much earnestness why I did not obey him. I said that it was impossible for me to be of any use to his Majesty if, under the then circumstances, I accepted any thing from him. He wept."

In relating this circumstance to Mrs. Forster, Lord Eldon added, "I told him that there were people who envied me every mark of my Sovereign's favour, and who would give an unfavourable construction to my receiving any thing from him at that time; and, therefore, greatly as I valued his gifts, I thought, under present circumstances, it was best to return the watch with its chain and seal. The King took them and said nothing.

"Some time afterwards, nine or ten months afterwards, I was sitting in the Chancery Court, when a red box and key to it were delivered to me. I

opened it, and found the identical watch and seal, and a letter from the King." This letter, after mentioning some other matters, proceeds thus:—

"Windsor Castle, January 21st, 1805.

"The King takes this opportunity of forwarding to the Lord Chancellor the watch he mentioned the last spring; it has undergone a thorough cleaning, and been left with the maker many months, that the accurateness of its going might be ascertained. Facing 10 minutes there is a spring, if pressed with the nail, will open the glass for setting the watch; or, turning the watch, pressing the back edge facing 50 minutes, the case opens for winding up.

"GEORGE R."

The Anecdote Book says, "The seal is a curious one. It contains a figure of Religion looking up to Heaven, and a figure of Justice with no bandage over the eyes, his Majesty stating that Justice should be bold enough to look the world in the face. The motto was, 'His Dirige Te.' It happened that I sent a letter to my old excellent friend, Dr. Swire of Melsonby, sealed with this seal. He showed it to his friend and neighbour Dr. Zouch, who had refused a bishopric. Dr. Zouch preached an assize sermon soon afterwards in Durham Cathedral, which had a passage in it representing Justice without a bandage over the eyes. The sermon was published, and several reviews of the time stated that they had hunted all authors, Grecian and Roman, to discover where Dr. Zouch had borrowed the hint, so to describe Justice, but in vain; and complimented him much upon a thought so new and so beautiful." *

* NOTE BY THE PRESENT EARL. —It is perhaps worthy of notice, that although the watch which King George III. gave to Lord

Lord Eldon acknowledged the King's goodness in these terms: —

"Lord Eldon cannot delay till he sees your Majesty, offering his most humble and grateful acknowledgments for the great favour which he has received from your Majesty. Whilst he lives he shall carry about with him the valuable token your Majesty has been pleased to present to him as a mark of your Majesty's gracious acceptance of his most humble services to his King and Master; and he trusts that as long as Providence shall permit him to have any descendants, they will never fail to cherish and value, as he does, this proof of your Majesty's great kindness to your subject and servant. — His humble wish is, that he, and those descendants, may be enabled to direct their conduct, in all time to come, as your Majesty has now been pleased to prescribe, by the dictates of Religion, and by the rules of that Justice which, not being afraid to throw the bandages from its eyes, will never hesitate to execute its righteous purposes at the hazard of all the consequences which may be within its view."

The King, during one of his illnesses, complained to Lord Eldon, who related the story to Mr. Farrer, that a man in the employ of some of his physicians, had knocked him down. "When I got up again," added the King, "I said my foot had slipped, and ascribed my fall to that; it would not do for me to admit that the King had been knocked down by any one." Lord Eldon related to Lord Encombe, that the King used to say he had had one advantage from his mental

Eldon had the additional value of having been worn for many years by the King himself, yet the device of the seal seems to bear some internal evidence that the Royal donor had had this engraved especially for his Chancellor, since the judgment seat is clearly a representation of the Woolsack, and the scroll, with its Latin motto, signifying, "Direct thyself by these," namely, by Religion and Justice, might, with peculiar propriety, be addressed to the first judge in the land.

afflictions; namely, the means of knowing his real from his pretended friends.

Both Houses were now occupied with the Volunteers' Consolidation Bill. Lord Carnarvon having questioned, in the debate of the 27th of March 1804, the King's prerogative to array all classes of his subjects in arms at seasons of danger, independently of consultation with his Parliament,

Lord Ellenborough proved, from various authorities, and particularly from the ancient Commissions of Array (one whereof was passed in the fifth year of Henry IV., and is set out in the third volume of the Parliament Rolls, and recognised as law by Lord Coke), that it is a prerogative inherent in the Crown, to require, in critical cases such as invasion or even the apprehension of invasion, the services of all subjects capable of bearing arms. This prerogative, however, would not involve a power of throwing all classes indiscriminately into the ranks: men must be employed according to their states, their habits of life, and the modes in which they might be most useful.

Lord Grenville argued, that, in the present age, this prerogative must be exercised, not by the Sovereign acting personally, but by the Sovereign acting under the sanction of Parliament.

The Lord Chancellor, in admitting the superiority of a strong regular army as compared with a volunteer force, reminded the House that such a body of regulars as would have been at all equal in its efficiency, to the existing force of volunteers, could not have been raised with the ease or rapidity with which that existing force had been organised. Against the restrictions with which Lord Grenville had sought to qualify the prerogative, he entered his most solemn protest; and argued the validity of the prerogative, not only upon legal authorities, but upon the necessity of the cases to which it was applicable, and the paramount consideration of the people's safety. Should the country be invaded, and a landing effected when Parliament was not sitting or not in

being, what would be the practical consequences of the doctrine that the prerogative was available only through the instrumentality of the entire Legislature?

In Committee on this Bill, 5th April, —

He took occasion to condemn the practice of imputing to the negligence or incapacity of the law officers of the Crown all the confusion and inconsistency that appeared in the various acts of parliament passed from time to time. The fact, he said, frequently was, that a bill, originally prepared with the greatest care, underwent so many modifications in its progress through both the Houses, and received so many amendments from what was called (how properly he would not take upon himself to say) the conjunctive wisdom of parliament, that it became at last in a great degree inexplicable.

The Committee on the Bill was resumed on the following day, when

Earl Spencer, upon one of the clauses on which the Chancellor had been arguing, made some observations characterising that argument as a subterfuge, to take "away the volunteers' exemptions by legal distinctions and subtleties. If the clause passed, he should look upon himself as having been tricked into kidnapping men by false offers: his personal pledge would be destroyed, and the faith of Parliament violated."

The Chancellor met this attack with the best possible temper and taste.

He would inform the noble Earl, that he had as high a regard to the honour of Parliament, and to his own honour, as the noble Earl; and he meant by that to express his feelings of the injustice done him, since he could not wish for a higher character, as a public or as a private man, than that which the Noble Earl possessed.*

* Parl. Hist. April 6. 1804.

Earl Spencer's anger was disarmed, and coming up to the Woolsack, he shook hands with the Chancellor.*

The spirit, which had led him to defend the law officers of the Crown from unmerited imputation, was still more earnestly excited when a personal friend of his own was assailed. The circumstances of the time having induced several regiments of Irish militia to make voluntary offers of service in Great Britain, a bill was introduced into Parliament for enabling his Majesty to accept those offers. Lord Boringdon, in opposing it on the 19th of April, made some hostile comments upon certain letters which the Chancellor of Ireland, Lord Redesdale, in placing Lord Fingal, an Irish Roman Catholic peer, upon the Commission of the Peace, had addressed to that nobleman, concerning the imputed disaffection of the lower classes of the Irish Roman Catholics and the dangerous influence of their priests.

The Lord Chancellor said it was impossible for him to remain silent after the charges unjustly cast upon a noble person, who had long been his dearest and most intimate friend, and against whom uncommon pains had lately been taken to excite a most unfounded prejudice. That noble person had been accused of entertaining sentiments inimical to a large body of the Irish people. This was wholly untrue; and indeed, on many occasions, Lord Redesdale had been the best friend of the Roman Catholics of Ireland, and their most strenuous advocate. Thus much he thought it proper to say in behalf of one whose excellent qualities he had long known and continued to hold in the highest estimation, and whose friendship he hoped to preserve as long as life continued within him. It had been objected, that this measure would convert the militia regiments of Ireland into deliberative

* Law Mag. xlii.

bodies. In that objection he could perceive no force; he could see nothing like deliberation in their expressing a willingness to serve in any particular place out of their own country. Suppose that a body of troops had agreed to serve only in a particular county of England, and that a necessity should occur for their assistance in the county adjoining, from which they might be separated perhaps only by a river; if they should offer to cross the bridge, which they were not compellable to cross, would it be dangerous to accept such assistance? Would that be to recognise a dangerous deliberative power in military men? He did not apprehend that at the present moment this force was *absolutely necessary* to Great Britain; but such an accession to the means of domestic defence would still be highly useful, as enabling the Government to convert a large portion of its ordinary force to other important purposes.

Lord Redesdale's correspondence with Lord Eldon, which is very voluminous, while it indicates an honest and incessant zeal on the part of the Irish Chancellor for fair dealing toward the Roman Catholic people, and for the suppression of the jobbery so rampant in Ireland before the Union, yet maintains a strong tone both of opposition to the claim for "emancipation," and of caution against the ulterior but not then avowed objects of the Roman Catholic agitators. The following extracts from these letters, written by an Irish to an English Chancellor half a century ago, and embracing not a few of the points which agitate the whole empire to this day, will probably retain their interest, as well for curious and speculative readers, as for practical politicians. The earlier of these extracts belong in point of date to the years 1802, 1803, but seem to find their place most conveniently here, in connection with the correspondence of 1804.

Lord Redesdale to Lord Eldon.—(Extract.)

"Ely Place, Dublin, May 4th, 1802.

"Patronage is here much looked to from habit; and every man's consequence depends, in some degree, on his patronage; and patronage is sought in various ways. This makes it much more difficult to find a man who is wholly disinterested on any subject, or who thinks himself not interested, though in fact he can scarcely be deemed to have an interest. In truth, we have not yet quite got rid of the old habits produced by the old system.

"I have been principally engaged hitherto in eating and drinking. To-morrow I sit for the first time.

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"I have found Lord Avonmore a much pleasanter man than I expected to find him from report. Lord Kilwarden is a sensible man, but I think not strong. Lord Norbury—as you know. The Attorney General I like, though he is not high as a lawyer. The Solicitor has more character, and I like him too. Mr. O'Grady is a pleasant young man. Mr. Saurin sensible, but I think discontented. The rest are not of much importance.

"My dear Lord,

"Faithfully yours,

"REDESDALE."

Lord Redesdale to Lord Eldon.—(Extract.)

"Ely Place, Dublin, May 29th, 1802.

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"I see most clearly, that time alone can produce that change which is necessary to enable those who are in situations of power or authority of any description in this country to act as persons in the same situations ought to act in England; and that whoever looks to Ireland with English eyes only, and thinks of Ireland with English opinions only, will fall into many errors. I have been startled at some acts of authority, which I have been called upon to do as matters of course. But I find they must be done as they have been done; and that although I should think them improper in England, they are unquestionably necessary here."

Lord Redesdale to Lord Eldon.—(Extract.)

"Ely Place, Dublin, July 19th, 1802.

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"You have truly said that if Irish job is permitted to get into English councils, the union will ruin England. You never made a more just or more important observation. We are gone if the spirit of Irish job is not completely put out of countenance.

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"Lord Cornwallis and Lord Castlereagh are both pledged, as they say, to the Catholics; and I feel that the former struggle has only produced delay, and that the measure will be carried in a worse way than that in which it was originally proposed. Since I have been here, I have, I think, gained at least so much knowledge of the country as to be able to form some opinion on the subject; and I think it clear, that Lord Cornwallis was very ill informed, and judged very ill in a variety of instances. Lord Castlereagh was very young, very ill-supported, and alarmed at the failure of the first proposal of Union. His family are considered as a sort of head of the dissenters; and he has a strong bias, from education and habits, towards that body of men who are to the full as hostile to the Established Church as the Catholics, though alarm for themselves made them take a sudden turn during the rebellion. The Church is sinking every day, and no exertion is made to save it. Without strong aid it cannot stand; and if it should fall, as I think it must if the Catholic question should be carried as proposed, I fear English influence, English connection, and the Union will go with it. It is idle to talk of giving the Catholic priests salaries, which must be given by Parliament, and saying that you do not give the *Catholic religion an establishment.* But this is not all. Depend upon it, the salaries will come out of the income of the Established Church. Be assured that that is the plan (whatever A. may fancy to the contrary), and that the diminution of the income of the Church is as much the object with some, as the permanent establishment of the Catholic priests is the object with others. I hear it said that the popish bishops, &c. are adverse to the measure: I doubt their sincerity; but if they are sincere, it

is because they think their own craft in danger. Jacobinism is at the bottom of the whole, and will overturn everything at last, if not powerfully resisted and counteracted; and when the rebound shall happen, for it will happen as it has happened in France, the Catholic will be the only religion which will recover on the rebound; for the rebound will be the effect of physical force, which is not with the Established Church, but with the Catholics. Excuse this long declaration against measures which I dread, and which I have no doubt will soon be proposed, and fear will be carried.

"Adieu, my dear Lord Chancellor,

"And believe me ever,

"Faithfully yours,

"REDESDALE."

Lord Redesdale to Lord Eldon. — (Extract.)

"My dear Lord, "Ely Place, Dublin, Nov. 2nd, 1803.

"Knowing the state of things in England as well as in this country, and observing how few there are whose minds are above the bias of little interests or passions, and how much fewer there are who are sufficiently informed to judge sanely, especially of this country, — how many there are at the same time, high in rank, in talents, in acquirements, ready to indulge personal resentments at the expense of every more worthy consideration, — it is impossible not to be most anxious for the event of the succeeding months; for, as to years, they may almost be thrown out of the measure of time, — months, short months, produce such wonderful changes. The fate of this country depends, in my opinion, wholly on the *English* here and in Great Britain; on their viewing the subject coolly and firmly, and acting with becoming resolution and spirit. The spirit of the Roman Catholics in this country calls itself *Irish*, separates itself equally from Great Britain, and from *English* or *Britons*, and calls, by the appellation of *Englishmen* or *Saxons*, not only the inhabitants of Great Britain, but all the Protestants in Ireland. The struggle at this moment is, in truth, whether the Protestants shall remain in their possessions, or the Roman Catholics shall become the sole possessors of Ireland. By Protestants,

I would not be understood to mean all who profess themselves such, because I know there are many apparent Protestants, who are considered by the Roman Catholics as of their body, and who would become Roman Catholics without scruple, to save their lands. The common opinions in England on this subject are formed with little consideration of it, and in great ignorance of facts and circumstances. It seems to me absolutely necessary that the public mind should by some means be informed, that it may judge more sanely than it has lately done.

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They say, it was unjust to reform the Christian religion in Ireland as it was reformed in England; it was unjust to punish the Irish Roman Catholics for opposing this reform; it was unjust to give the ecclesiastical revenues to those of the clergy who submitted to the reform established by the legislature, that is, who conformed to the law of the land; it was unjust to forfeit the lands of the adherents of the Earl of Desmond, &c.—of the adherents of James II. in Ireland; therefore you ought to *give back*, as they term it, all that has been thus taken; I wonder they do not propose to give back, to the Saxon families, all they were deprived of by the Norman conquest.

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Wilberforce openly says he thinks you ought to give to the Roman Catholic priests the tithes of Roman Catholics; that is, you ought to abolish the Protestant church, for that would be the effect.

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But let them attend a little to the *justice* of all this, with respect to property, independent of other considerations. Since the time of Queen Elizabeth, the Protestant religion has been always the religion established by law in Ireland. A possession of between two and three centuries has followed: interrupted, indeed; but, by the law of the land, the only lawful possession. Who are the present proprietors? Descendants, in the seventh, eighth, ninth, tenth generation, perhaps, from the original acquirers, — purchasers of all descriptions, relying on the faith of the law.

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Lord Redesdale to Lord Eldon. — (Extract.)

" Ardrin, alias Kilmand, March 23rd, 1804.

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"I believe I have more than once told you that I think the Protestants, if not betrayed by their Government, are the *strongest*, though certainly not the most numerous. But if they shall apprehend treachery in their Government, each man will be endeavouring to outrun his neighbour in submission to the ruling powers. Such is the character of the Irish."

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Lord Redesdale to Lord Eldon. — (Extract.)

" Ardrin, March 26th, 1804.

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" The *forfeitures* in this country are the true source of all its misery. They have produced that uncertainty of title, and still more of possession, which has rendered the people so savage. I believe there has been much injustice in many of the forfeitures, and more in the manner in which they have been enforced. But this injustice is magnified, in the minds of the suffering families, to a pitch of extravagance; and when many, very many, are labouring for hire in the fields of their ancestors, and repeating to each other at every stroke of their work, 'Those who pay us ought to be the labourers, and we the masters,' can it be surprising that discontent lurks perpetually in their minds? But is this a discontent springing from religion? No; its origin is worldly, and religion is only used to work it into action, for the sake of those who hope to gain by it. Would the making every concession which has been asked on the score of religion, even the dividing the tithes with their pastors, remove this discontent? It would not touch it. It would only give additional power to those who nourish the discontent. Nothing but restoration of the forfeited lands would do this."

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Lord Redesdale to Lord Eldon. — (Extract.)

"Ardrin, May 18th, 1804.

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"The English Government is particularly weak and precarious, because the Roman Catholic church is not only the avowed rival of the Established Church, but pretends a more ancient and superior title to the Establishment, the present possessors of which it treats as usurpers. When the Stuart family had interest and consequence, every one felt danger from the Pretender. It would have been thought an extraordinary measure to have suffered the old Pretender to have lived in London, attended with all his adherents, paying him all the obedience and all the honours of a King, obeying his laws, and refusing obedience to those sanctioned by George the First, or George the Second. Could the Pretender have so maintained himself in London from 1715 to 1745, what would have been the danger in 1745? Yet such is precisely the state of the Roman Catholic church in Ireland.

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"The whole body of Roman Catholics, ranged under the priests of their respective parishes, and these again subordinate to their archdeacons, deans and chapters, bishops, and archbishops, compose a formidable army, ready at all moments to seize on what they deem their rights, in which the laity include the forfeited lands, the titles to which they have preserved, or affect to have preserved, clear and regular. Had the Pretender had an army so arranged in England, residing himself in England, with a regular staff, colonels, lieutenant-colonels, majors, captains, subalterns, and privates, all regularly and constantly disciplined to arms, used to know and obey their superior officers, and connected as completely as the regular army of the state, surely the Government would in 1745 have been in the utmost danger."

CHAPTER XIX.

1804.

COMBINATION OF PARTIES AGAINST MR. ADDINGTON. — NEGOTIATION THROUGH LORD ELDON WITH MR. PITT. — LETTER FROM THE QUEEN. — LETTERS OF THE KING AND MR. PITT, AND PERSONAL COMMUNICATIONS BETWEEN MR. PITT AND LORD ELDON ABOUT THE FORMATION OF A NEW MINISTRY. — LORD ELDON'S EXPLANATIONS OF HIS OWN SHARE IN THESE TRANSACTIONS. — LETTER FROM THE KING ON THE COMPLETION OF THE MINISTRY. — POLITICAL CHARACTER OF MR. ADDINGTON.

THE situation of Ministers was now most perplexing. The thickening difficulties of Irish affairs and of the new war, and the talents and activity of the many-headed Opposition in both Houses of Parliament, gave plain warning that the King's Government must be strengthened without delay. But this was matter of no easy accomplishment. The parties, of which Mr. Fox and Lord Grenville were respectively at the head, entertained opinions too decidedly at variance with the views of the Ministers, to leave any reasonable hope of co-operation from either of those quarters; and Mr. Pitt, who had been favourable to the Administration in its outset, had by degrees become, first indifferent to it, then disinclined, and at last almost as adverse as Mr. Fox and Lord Grenville themselves. The forces of these three leaders now acted in formidable union against Mr. Addington: and the public were wrought into the expectation that a Government would soon be formed, on a broad basis, comprehend-

ing all the abilities of the various political sections. Mr. Addington, feeling the inadequacy of his own strength to cope with these powers, and the indisposition of the country to support him in such a struggle, would willingly have made way for a more efficient Ministry, if such a Ministry could have been constructed; but, in addition to the difficulty produced by the discordant nature of the materials, there was this further obstacle, that the state of the King's mind, though not sufficiently disordered to incapacitate him from the transaction of common business, was yet much too unsettled to admit the connected deliberation necessary for effecting a change in the councils of the country. Meanwhile, however, as is indicated by the following note, some overtures appear to have been made to Mr. Pitt by or through the Lord Chancellor.

Mr. Pitt to Lord Eldon.

"York Place, Tuesday Night,
"March 20th, (1804).

"My dear Lord,

"Mr. Scott* was so good as to give me your note this evening in the House of Commons: I am very glad to accept your invitation for Saturday, as, whatever may be the result of our conversation, I think the sooner we hold it the better. The state of public affairs makes it impossible that the present suspense should last very long, and nothing can give me more satisfaction than to put you confidently in full possession of all the sentiments and opinions by which my conduct will be regulated. Believe me, my dear Lord,

"Yours very sincerely,
"W. PITT."

A confidential note from the Queen, in the following

* The present Earl's father, then member for Boroughbridge.

month, seems to indicate some embarrassment arising from the state of the King's mind:—

"My Lord,

"Something having occurred last night which I wish to communicate to you, I take advantage of your promise, to apply to you when under any difficulty, and beg to see you for a moment in case you call at the Queen's House this morning before you go in to the King.

"CHARLOTTE."

"Q. H. April 14th, 1804."

Whether from an unfavourable change in the King's health, or from some other cause not distinctly apparent, the negotiation with Mr. Pitt seems to have been for some time interrupted. On the 22nd of April, however, he writes thus to the Chancellor:—

Mr. Pitt to Lord Eldon.

"York Place,

"My dear Lord, "Sunday, April 22nd, 1804.

"Under the present peculiar circumstances, I trust your Lordship will forgive my taking the liberty of requesting you to take charge of the enclosed letter to the King. Its object is to convey to his Majesty, as a mark of respect, a previous intimation of the sentiments which I may find it necessary to avow in Parliament, and at the same time an assurance, with respect to my own personal intentions, which I might perhaps not be justified in offering uncalled for, under any other circumstances, but which you will see my motive for not withholding at present. I certainly feel very anxious that this letter should be put into his Majesty's hands, if it can with propriety, before the discussion of to-morrow*; but having no means of forming myself any sufficient judgment on that point, my wish is to refer it entirely to your Lordship's dis-

* On Mr. Fox's announced motion respecting the defence of the country.

cretion, being fully persuaded that you will feel the importance of making the communication with as little delay as the nature of the case will admit. I shall enclose my letter unsealed for your inspection, knowing that you will allow me in doing so to request, that you will not communicate its contents to any one but the King himself. I am the more anxious that you should see what I have written, because I cannot think of asking you to undertake to be the bearer of a letter, expressing sentiments so adverse to the Government with which you are acting, without giving you the previous opportunity of knowing in what manner those sentiments are stated.

"Believe me, with great truth and regard,
"My dear Lord,
"Faithfully and sincerely yours,
"W. PITT."

Mr. Pitt to Lord Eldon.

"York Place,
"My dear Lord, "Sunday Night, April 22nd, 1804.

"I have no hesitation in availing myself of your permission, to return into your hands my letter to the King. My wish is to leave it entirely to your discretion, whether it can with propriety be delivered before the debate to-morrow. If not, I anxiously wish that it should be known to his Majesty in due time, that it was deposited with you in order that it should be so delivered, if you should judge that it could with propriety. I am, my dear Lord,
"Faithfully and sincerely yours,
"W. PITT."

On Monday, April 23rd, the King was, in the judgment of his Ministers, sufficiently recovered to preside at a Council; and the attempt to remodel the Government seems to have been immediately resumed, through the agency of the Lord Chancellor, on whom alone, in a matter where the personal intervention of Mr. Addington was necessarily out of the question, the King

inclined to rely. From the following note, addressed by Mr. Pitt to the Chancellor, it appears that before the end of the month the negotiations were in fair train: —

"York Place,
"Sunday, April 29th, 1804.

"My dear Lord,

"I am very much obliged to you for your letter, and must feel great satisfaction in learning the manner in which the assurances contained in my letter were received. I shall be at home till half-past two to-day, and afterwards from five to six, and any time before two to-morrow, if you should find occasion to call here. Or, if you should prefer seeing me at any other hour, or at your house, you will have the goodness to let me know, and I shall be at your commands.

"I am, my dear Lord,

"Sincerely and faithfully yours,

"W. PITT."

On the 30th of April, when the order of the day was read in the House of Lords, for the Marquis of Stafford's motion respecting the defence of the country, Lord Hawkesbury, then Secretary for Foreign Affairs and leader of the Government in that House, requested the mover to postpone the subject, for reasons which he said were of the highest importance, but of so delicate and peculiar a nature that he could not, consistently with his duty, explain them then. But he could assure their Lordships, on the pledge of his own personal character, both as a Minister and as a Lord of Parliament, that they were of such a kind as he was certain would induce the Noble Marquis, if they were made known, to acquiesce in the request for postponement, — a request, which, under similar circumstances, had never been refused. Lord Stafford intimated his assent; but some discussion arose, in

the course of which the Lord Chancellor expressed his opinion in favour of the proposed postponement, and his own feelings upon the matters connected with it, saying emphatically,

"I am determined to fulfil, as long as I have a drop of blood in my veins, my duty to his Majesty and the country, — for these terms, my Lords, mean the same thing: to do my duty to his Majesty is to do my duty to the country, and to perform my duty to the country is to perform my duty to my Sovereign. Upon my most awful sense of what I think my duty to both, my conduct has been, is, and ever shall be, regulated; and this paramount consideration now induces me to join in recommending the Noble Marquis, as far as the opinion of an humble individual may be deserving of attention, to postpone his motion."

After some warm debate, the motion was adjourned. On the same evening, this adjournment having become known in the House of Commons and alluded to by Mr. Fox, — the Chancellor of the Exchequer, Mr. Addington, declared that the same considerations which had rendered it expedient to postpone the motion in the other House applied also to several matters which were pending in this; and these matters were postponed accordingly.

Mr. Pitt to Lord Eldon.

"York Place,
"Wednesday, May 2nd, 1804,
"Three quarters past 1 P. M.

"My dear Lord,

"I enclose a letter addressed to you, which I shall be much obliged to you if you will lay before his Majesty. I am sorry not to have been able to make it shorter, or to send it you sooner. As I think it may probably find you at the Court of Chancery, I will, at the same time that I send it, ride down to Mr. Rose's, at Palace Yard, in order that I may be easily within your reach, if any thing should arise on

which you may wish to see me before you go to the Queen's House. If you should not be at the Court of Chancery, I shall order my letter to be carried to your house, unless my servant should learn where it can be delivered to you sooner.

"Ever, my dear Lord,

"Yours very sincerely,

"W. PITT."

"Lord Chancellor."

Mr. Pitt's return to power was far from being personally desired by his Majesty, who seems to have submitted to it only as a matter of necessity. The Royal ear, for some time accustomed to the mild and deferential key of Mr. Addington, was somewhat painfully startled by the loftier tone of Mr. Pitt; and under the irritation of an illness not yet completely dissipated, this comparative dissatisfaction was more than usually excited. A note from the King, animadverting upon the enclosure in Mr. Pitt's letter to the Chancellor of 2nd May, will show how unwillingly his Majesty contemplated the re-instatement of its author.

King George III. to Lord Eldon.

"Queen's Palace,

"May 5th, 1804, 19 minutes past 6 P. M.

"The King is much pleased with *his* excellent Chancellor's note: he doubts much whether Mr. Pitt will, after weighing the contents of the paper delivered this day to him by Lord Eldon, choose to have a personal interview with his Majesty; but whether he will not rather prepare another essay, containing as many empty words and little information, as the one he had before transmitted.

"His Majesty will, with great pleasure, receive the Lord Chancellor to-morrow, between ten and eleven, the time he himself has proposed.

"GEORGE R."

Although the force of circumstances prevailed to effect the King's acceptance of Mr. Pitt himself, it was in vain that Mr. Pitt attempted to open the way for Mr. Fox as his colleague. Against the admission of the latter statesman into his councils, the King was immovably resolute; and Lord Grenville and his friends, whose co-operation Mr. Pitt was authorised to invite, declined to form part of a government thus constructed upon what Lord Grenville termed "a principle of exclusion." Meanwhile the Lord Chancellor, actuated at once by his attachment to the King whose personal feelings were deeply interested in these changes, and by a sense of the public inconveniences which, in the peculiar state of the King's mind, would follow from any hasty or forced composition of a new Ministry, had been successfully employing his influence in the House of Peers, to gain, on behalf of his Majesty, the time required for due deliberation and arrangement. The negotiations being still incomplete on the 7th of May, which was the day appointed for the postponed motion of Lord Stafford, the Lord Chancellor then requested a still further postponement, saying,

"It is within my own knowledge that circumstances have "now passed, which make the discussion of the Noble Mar- "quis's motion more unseasonable and more inexpedient, at "the present time, than at any former period proposed for its "consideration."

To this suggestion Lord Stafford and the House acceded without debate: it being by that time generally understood that the arrangements for the Ministry were in an advanced state.

Mr. Pitt, who was now in personal communication with the King, was accustomed, after any interview with his Majesty, to inform the Chancellor of the general result. The notes next subjoined bring down the negotiations to their successful close: —

"York Place,
"My dear Lord, "Tuesday, May 8th, 1804.

"I shall be much obliged to you if you can send me a single line to let me know what accounts you have from the Queen's House this morning. I shall be very desirous of seeing you in the course of the day, and will endeavour either to find you near the House of Lords between four and five, or will call on you in the evening. It will, probably, be desirable that I should see the King again to-morrow.

"Ever, my dear Lord,

"Sincerely yours,

"W. P."

"York Place,
"My dear Lord, "Wednesday Night, May 9th, 1804.

"I have had another interview to-day, not quite, I am sorry to say, so satisfactory as that of Monday. I do not think there was any thing positively wrong, but there was a hurry of spirits, and an excessive love of talking, which showed that either the airing of this morning, or the seeing so many persons, and conversing so much during these three days, has rather tended to disturb. The only inference I draw from this observation is, that too much caution cannot be used in still keeping exertion of all sorts, and particularly conversation, within reasonable limits. If that caution can be sufficiently adhered to, I have no doubt that everything will go well; and there is certainly nothing in what I have observed, that would, in the smallest degree, justify postponing any of the steps that are in progress towards arrangement. I am, therefore, to attend again at two to-morrow, for the purpose of receiving the Seals, which Mr. A. will have received notice from his Majesty to bring. If I should not

meet you there, I will endeavour to see you afterwards at the House of Lords.

"I am, my dear Lord,
"Ever sincerely yours,
"W. PITT."

In accordance with the expectation expressed in the last note, the seals of office were delivered to Mr. Pitt on the following morning, the 10th of May 1804. His Administration, when completed, was found to involve much less of change than had been generally expected; the only members of the Cabinet who retired with Mr. Addington being Mr. Yorke, Earl St. Vincent, and Lord Hobart; and the members who came in with Mr. Pitt being Lord Harrowby, Lord Melville, and Lord Camden, with the addition of Lord Mulgrave, whose predecessor, in the duchy of Lancaster, had not held a seat in the Cabinet.

Of Lord Eldon's share in this arrangement, and of the circumstances under which he was induced to retain the Chancellorship, he has himself, in his Anecdote Book, left this memorandum: —

"When Mr. Addington went out of office, and Mr. Pitt succeeded him, the King was just recovered from mental indisposition. He ordered me to go to Mr. Pitt with his commands for Mr. Pitt to attend him. I went to him, to Baker Street or York Place, to deliver those commands. I found him at breakfast. After some little conversation he said, as the King was pleased to command his attendance with a view to forming a new Administration, he hoped I had not given any turn to the King's mind which could affect any proposition he might have to make to his Majesty

upon that subject.* I was extremely hurt by this. I assured him I had not; that I considered myself as a gentleman bringing to a gentleman a message from a King; and that I should have acted more unworthily than I believed myself capable of acting, if I had given any opinion upon what might be right to his Majesty. Mr. Pitt went with me in my carriage to Buckingham House, and, when we arrived there, he asked me if I was sure his Majesty was well enough to see him. I asked him whether he thought that I should have brought him such a message if I had any doubt upon that, and observed that it was fortunately much about the hour when the physicians called; and, it turning out that they were in the house, I said he might see them in an adjoining room. He asked me to go with him into that room. After what had passed, I said I should not do so, and that it was fit that he should judge for himself, and that I should be absent. He then left me, and, after being with the physicians a considerable time, he returned, and said he was quite satisfied with their report, and expressed his astonishment at what he had heard from them; that he had learnt, he thought from unquestionable authority, only the day before, that I never had seen the King but in the presence of the doctors or doctor who attended him on account of his mental health. He intimated that this was intelligence which had come from

* This inquiry seems to have suggested itself in consequence of an opinion strongly expressed by Lord Eldon to Mr. Pitt, against the association of Mr. Fox in the Ministry which Mr. Pitt was about to receive the King's commands for constructing. See the letter of Lord Eldon to Lord Melville, of January 1807.

C——n House, and which he had now learned was utterly devoid of truth.*

"He was soon after introduced to the King, and he remained with his Majesty a considerable time. Upon his return he said he found the King perfectly well,—that he had expressed his full consent to Lord Grenville's being a part of the new Administration, but that all his endeavours to prevail upon his Majesty to consent to Mr. Fox also being a member of it had been urged in vain in the course of a long interview and conversation. It is well known that Mr. Pitt was obliged to form an Administration without either. After Mr. Pitt had formed the rest of his Administration, he conversed with me as to remaining Chancellor. I told him that I must first know whether he had any reason to believe that it had been necessary to ask me whether I had given any turn to the King's mind that could affect any proposition he had to make to the King. He said, that when he left his Majesty he was convinced that nothing had passed between his Majesty and me relative to the formation of an Administration, as to any person who should or should not form a part of it; and that, if I desired it, he would give me a written declaration, in any terms which would be satisfactory, that he had no

* This Carlton House report about the presence of the physicians was disproved by Lord Eldon's ample and distinct explanation of the whole matter to the House of Lords, on the 28th of January 1811, when the physicians were living, who could have been examined to contradict him had contradiction been possible. Lord Brougham, being doubtless unaware of that direct refutation, has taken the supposed circumstances of the Chancellor's communication with the King, as a text for some constitutional strictures, in the second series of his "Historical Sketches of Statesmen," 1839, pages 55 to 57.

reason to think that I had in any way influenced his Majesty's mind. I told him that what he had said was enough."

The following additional particulars are from a draft extant in Lord Eldon's hand-writing of a letter addressed by him to Mr. Perceval. It is undated; but was obviously written on the occasion of the difficulties which arose in 1810 and 1811, out of the King's relapse: and it recapitulated some of the circumstances which occurred during the malady of 1804, in these words: —

Mr. Pitt was introduced to his Majesty, — they had a long conversation, — he came out, *and the physicians remember it,* not only satisfied, but much surprised with the King's ability, — he said he had never so baffled him in any conversation he had had with him in his life. He then went to Lord Grenville, I believe, — and, as I understood him, the King did not object to Lord Grenville, but did object to Mr. Fox. Lord Grenville, I understood, therefore declined; and I recollect Mr. Pitt saying, with some indignation, he would teach that proud man, that, in the service and with the confidence of the King, he could do without him, though he thought his health such, that it might cost him his life. *No objection was made* to coming in, on account of the King's health — that was quite unobjectionable, if the objection to Mr. Fox could be got over.* I recollect Mr. Pitt saying, he never saw the King, when he would more willingly have taken his opinion about the most important of all subjects, peace or war.

The succeeding letter from the King is a striking testimony to Lord Eldon's upright and loyal conduct throughout these difficult negotiations: —

King George III. to Lord Eldon.

"Queen's Palace, May 18th, 1804.
"5 m. pt. 10 A.M.

"The King having signed the Commission for giving his

* By Lord Grenville, on that occasion.

Royal Assent, returns it to his excellent Lord Chancellor, whose conduct he most thoroughly approves. His Majesty feels the difficulties he has had, both political, and personally to the King; but the uprightness of Lord Eldon's mind, and his attachment to the King, have borne him with credit and honour, and (what the King knows will not be without its due weight) with the approbation of his Sovereign, through an unpleasant labyrinth.

"The King saw Mr. Addington yesterday.

* * * * * *

Mr. Addington spoke with his former warmth of friendship for the Lord Chancellor; he seems to require quiet, as his mind is perplexed between returning *affection* for Mr. Pitt, and great soreness at the *contemptuous* treatment he met with, the end of the last Session, from one he had ever looked upon as his private friend. This makes the King resolved to keep them for some time asunder.

"GEORGE R."

Mr. Addington, who, for one and twenty years before his death in the month of February 1844, had been withdrawn from the more active duties of political life, has left the reputation rather of a sensible and amiable man, than of an able statesman. His faculties were hardly those which are expected in a Minister, directing the Government, and leading the House of Commons.'" He wanted grasp of mind for great occasions and great positions: nor did he possess those powers of debate, by which the defect of more essential endowments has sometimes been supplied or concealed. He headed no party among the people; and his chief strength lay in the personal favour of George III., who liked him for his respectful demeanour and gentle disposition, and placed him at the head of the section of the House of Commons then known under the denomination of "The King's Friends." Their adhesion was not to his Majesty's

Government, but to his Majesty's person: whenever the King changed his Ministers, or differed from them, that flying squadron took up a corresponding position: and Mr. Pitt, when he returned to Office, soon found it necessary to conciliate the King by renewing his alliance with Mr. Addington, who, in January 1805, was created Viscount Sidmouth and appointed President of the Council. It was probably at the King's desire, that on the formation of the Whig Ministry, in 1806, he took office with men whose sentiments were so little in unison with his own; and he afterwards rejoined his old allies, with whom, as Secretary of State for the Home Department, he continued to be associated until his final retirement from political business. In his administration of that office, which he held from 1812 to 1822, during times of great excitement and even disturbance, he displayed courage and firmness, well tempered by a humane and equable mind; and showed that his merits, if not suited for the loftiest station in cabinet or debate, were such as to fit him for useful and important duties, and to ensure him an honourable place in the respect and regard of his colleagues. His private fortune being moderate, he accepted, and for some time retained, a pension for his services in the state; but, when placed in affluence by the addition of a large income which accrued to his lady upon the death of her father Lord Stowell, he relinquished, with a becoming liberality, the provision which, in other circumstances, he had very fairly considered himself entitled to enjoy.

CHAPTER XX.

1804.

KING'S INDISPOSITION: LETTERS OF THE DUKE OF YORK AND MR. PITT: RECOVERY OF, AND LETTER FROM, THE KING. — APPLICATION IN VERSE FOR A LIVING.—AYLESBURY CONSTITUENCY BILL. — LETTERS FROM THE KING. — LORD CHANCELLOR'S SPEECHES, ON SLAVE TRADE ABOLITION AND INSOLVENT DEBTORS' BILLS.— OVERTURES OF THE PRINCE OF WALES FOR A RECONCILIATION WITH THE KING: LETTERS OF THE PRINCE, QUEEN, AND KING: LORD CHANCELLOR'S INTERVIEW WITH THE PRINCE. — MARRIAGE OF LORD ELDON'S ELDEST SON WITH MISS RIDLEY: LETTER OF LORD ELDON TO LADY RIDLEY. — MISS BRIDGE OF WEOBLY. — LETTER OF MR. MOISES TO LORD ELDON, AND OF LORD ELDON TO MISS F. L. FARRER.

Mr. Pitt was very soon to struggle with some of the same perplexities which had disquieted his predecessor, on the subject of the King's mental health. The two following letters show the painfully uncertain state of it about the end of May, and the confidence placed in Lord Eldon both by the Royal Family and by the first Minister.

The Duke of York to Lord Eldon.

"My dear Lord, "Horse Guards, May 25th, 1804.

"Having missed the pleasure of seeing your Lordship to-day as I had intended, I trust that you will excuse my troubling you with this letter, to put you in mind of the necessity of speaking as early as possible to his Majesty upon the propriety of the Queen's keeping his birthday at St. James's; as, if it is not announced in the Gazette to-morrow

night, persons who mean to appear at the drawing-room will not have time to prepare their dresses. I am afraid, from what I have heard, that things were not comfortable at the Queen's house this morning, and wish that you would inquire of Sir Francis Millman and Dr. Simmonds before you go in to the King, as he seems to dwell much upon the illegality of his confinement, and is not aware of the dreadful consequences which may attend him if any unfortunate circumstance can be brought forward in Parliament.

"Believe me ever,

"My dear Lord,

"Yours most sincerely,

"FREDERICK."

"Bromley Hall, Saturday evening,

"My dear Lord, "May 26th, 1804.

"As I was leaving town this evening I learned (in a way on which I can entirely depend) some circumstances of a conversation in one of the audiences on Thursday, which seem very alarming. The topics treated of were such, as did not at all arise out of any view (right or wrong) of the *actual state* of things, but referred to plans of foreign politics, that could only be creatures of an imagination heated and disordered. This part of the discourse, however, though commenced with great eagerness, was not long dwelt on, and in the remainder, there was nothing in substance wrong. This information has been given me, as you may imagine, in strict confidence; but I desired and received permission to communicate it to you, and to mention it to Dr. S. I will tell you the name of my informant when I see you, and you will probably not find it difficult to guess him in the mean time. There is nothing very material to be known as to the particulars (as far as it strikes me) except that they related to plans, political and military, about the Netherlands. I mention thus much now, because it may enable you to learn from Dr. S. whether anything has before passed on this point. I would have endeavoured to see you in town to-morrow morning, but I understand you will be setting out early to Windsor. On your return, either that evening or Monday morning, I shall be very anxious to see you at any hour that

suits you best, and will beg you to send to Downing Street to let me know.

"Ever, my dear Lord,

"Sincerely yours,

"W. PITT."

The apprehensions thus expressed were, however, speedily allayed by the returning tranquillity of the King. His Majesty's next-inserted letter, written within a fortnight of the foregoing note, evinces, once more, an entire self-possession, and exemplifies, strikingly, that conscientious attachment of his to the religious and civil institutions of this country, which has left his memory in high and almost enthusiastic esteem among the worthiest classes of the British people.

King George III. to Lord Eldon.

"Queen's Palace, June 8th, 1804.

"The King, on returning from his walk in the garden, has found the Lord Chancellor's note, accompanied by the titles of the three Bills wherein the property of the Crown is affected.

"His Majesty fully authorises his most excellent Lord Eldon to give his consent to the House of Lords proceeding with these Bills, and in particular approves of the one for laying open Westminster Abbey to Palace Yard. Whatever makes the people more accustomed to view cathedrals must raise their veneration for the Established Church. The King will with equal pleasure consent, when it is proposed, to the purchasing and pulling down the west side of Bridge Street and the houses fronting Westminster Hall; as it will be opening to the traveller that ancient pile, which is the seat of administration of the best laws, and the most uprightly administered; and if the people really valued the religion and laws of this blessed country, we should stand on a rock that no time could destroy.

"GEORGE R."

It may now amuse the reader to turn for a moment from affairs of state, and glance at the Chancellor in more private pursuits. About the latter part of May, he received a paper, of which the following is a copy: —

EXTEMPORE ADDRESS

TO THE RIGHT HONOURABLE THE LORD CHANCELLOR,

Written by an hungry *sine cure* Parson, from his humble apartment, No. 2. Charlotte Street, Pimlico, on the evening of Whit-Sunday, 20th May 1804.

Hear, generous lawyer! hear my prayer,
Nor let my freedom make you stare,
In hailing you, Jack Scott!
Tho' now upon the woolsack placed,
With wealth, with power, with title graced,
Once, nearer was our lot.

Say, by what name the hapless bard
May best attract your kind regard,
Plain Jack? — Sir John? — or Eldon?
Give, from your ample store of giving,
A starving priest some little living, —
The world will cry out, "Well done!"

In vain, without a patron's aid,
I've pray'd and preach'd, and preach'd and pray'd, —
Applauded, but *ill-fed*.
Such vain éclat let others share;
Alas, I cannot feed on *air*,
I ask not *praise*, but *bread*.

You'll sure allow — 'tis most provoking
To see roast, boil'd, and dainties smoking,
Fools, knaves, and jugglers carving;
While learning, almost proved a curse,
With hungry throat and empty purse,
On Hebrew roots is starving.

'Twere better sure, if many a father
Would make his son a cobbler rather
Than needy learning give;
Since all the learning gain'd at college
Cannot impart that needful knowledge,
The knowledge "*how to live.*"

For me, unless hard fate's obduracy,
Relenting, grant me some snug curacy,
No more my gown I'll use:
The care of human *souls* declining,
Prebend's, for cobbler's, *stall* resigning,
I'll mend the *soles* of shoes.

Yet, scarcely forty winters past,
'Twere hard to see me at my *last,*
An awful warning giving!
Such sad reverse, good Lord! forbid it;
Save me, and let me "say *you* did it,"
On whom depends my *living.*

L. H. H.

From whom this petition proceeded, the Chancellor was at a loss even to conjecture; but, as it was his frequent custom, after the day's business in Court, to refresh himself with a walk, he turned his steps, on the first day when he happened to have leisure, toward the place from which the verses were dated, with a view to discover the author. He found in Charlotte Street, Pimlico, three houses numbered 2.; but at none of them was any clergyman resident. Miss Ridley, Lady Eldon's niece, who relates the story, adds, in a letter to the present Earl, "I am sure his kind heart was disappointed, not to find an object to relieve." After all, however, this piece of poetry turned out to be a mere *jeu d'esprit,* thrown off by Mr. Scott, his eldest son, "in consequence,"

adds Miss Ridley, "of a conversation which had taken place at Lord Eldon's dinner table, on the difficulty of swearing to hand-writing, which, from the same person, often varied materially. Lord Eldon said (and I am pretty sure I said the same), that he would never be mistaken in your father's writing; upon which your father said, that Lord Eldon might some day or another see it without recognising it.—A short time afterwards the two-penny post conveyed to Bedford Square those lines, with which your grandfather was highly delighted. Your father confessed to me, and I believe, to his father, that he had in this manner made the experiment of disguising his hand-writing, to confirm his observation that it might be seen without detection."

The month of June ushered a Bill into the House of Lords, which had passed the Commons in spite of the opposition of such men as Sir W. Grant, Mr. Fox, Mr. Windham, and Mr. Perceval, for reconstructing the constituency of the Borough of Aylesbury. Some of the electors having been guilty of bribery, it was proposed by this Bill to swamp the whole franchise, and let in all the forty-shilling freeholders of the three hundreds of Aylesbury to vote in the future elections of Members for that borough. Lord Eldon was a strenuous opponent of such legislation:—

He said, that if the principle of the Bill had been justifiable, the change ought not to have been confined to a *single* borough; but even had it been general, he should have opposed it, as contrary to the best views of the constitution, and founded on idle and theoretical notions of reform. For an evil like that alleged to exist at Aylesbury, the common law provided a sufficient remedy. He was no enemy to real reform; but

he would ever oppose that which, under the semblance of reform, committed injustice. The effect of this measure would be, not only to diminish the value of the franchise by multiplying its possessors, but to confound the innocent with the guilty.

These arguments, urged in the debates of the 6th and 15th of June, were unavailing, however, to defeat the Bill, which passed into law, and became the 60th chapter of 44 George III.

The 29th of June is the date of a kind note from the King, who, in congratulating the Chancellor on the then approaching marriage of his eldest son, falls into the error (and it is one of a nature very unusual with his Majesty) of mis-stating a proper name.

King George III. to Lord Eldon.

"Kew, June 29th, 1804.
"50 m. past 7 A.M.

"The King has this morning received the Lord Chancellor's note, with the list of Bills now ready for the Royal Assent, as also the Commission for passing them; which having signed, he returns them, with many congratulations on the near approach of Mr. Eldon's nuptials — if the lawyers are willing to finish the writings, — but decision and despatch seem not to be qualities much known, in that dangerous science when practised, though noble one in theory.

"GEORGE R."

King George III. to Lord Eldon.

"Kew, June 30th, 1804.
"— m. past — A.M.

"The King easily conceives, that, unless the House of Commons can be taught the utility of having more forecast, and consequently bringing in Bills earlier in the course of the Sessions, the present evil of occasioning much hurry, and too little decent deliberation in the House of Lords.* But, in

* Sic in orig.

truth, part of this must inevitably be laid, this year, to the door of the King's long, tedious, and *never-ending* confinement, which has thrown much perplexity in every quarter, but which he is resolved, with the protection of Divine Providence, carefully to avoid in future. His Majesty saw, yesterday afternoon, Mr. Pitt, and was much pleased with the appearance of his health, and his good spirits at the great success in the House of Lords, and total dereliction of the motley Opposition. Mr. Pitt brings in his proposals, for exonerating the Civil List, and the provision for the King's five daughters; of which the King gave them information last night, and saw, with the highest satisfaction, their affectionate gratitude.

"GEORGE R."

The Slave-trade-abolition Bill which, at the end of June, had passed the House of Commons and been read a first time in the House of Lords, stood for a second reading in their Lordships' House on the 3rd of July, when Lord Hawkesbury moved, on account of the then advanced period of the Session, that it should be read a second time on that day three months.

The Lord Chancellor said he did not recollect to have ever given a vote on this subject. But he thought it fair to those whose property would be ruinously affected by the Bill, to take time for deliberation, and asked of their Lordships to exercise their humanity and justice, not on partial, but upon comprehensive principles.

Lord Hawkesbury's motion was carried, and the Bill was consequently lost for that Session.

On the subject of an Insolvent Debtors' Bill, of which the commitment was moved on the 24th of July,

The Chancellor reprobated the false humanity and real injustice which these measures so often involved. They

were made effectual instruments of chicanery and swindling, until creditors were reduced by them to the situation of debtors, and compelled to seek the refuge of such legislation for themselves.

The King, on the 31st, prorogued Parliament in person.

The differences between his Majesty and the Prince of Wales, which had long been a source of much unhappiness in the Royal family, were beginning to occupy a good deal of the time of the Lord Chancellor. He enjoyed the unlimited confidence, personal as well as political, of the King and Queen, and upon his strong sense and kindly manners the Queen seems to have built a hope of reconciliation between the father and his son, for some time wholly estranged from one another. The way had been opened by the following letter:—

The Prince of Wales to Queen Charlotte.

"My dearest Mother, "Carlton House, July 4th, 1804.

"It is impossible for me, when so many embarrassing circumstances surround us, to refrain longer from assuring you of my undiminished and unalterable tenderness. Believe me that I deeply regret the not having it in my power to do that in person; for, independent of what I suffer from such a cruel privation, as the being separated from you and my sisters, I lament heavily the not paying my duty to the King. Were this allowed me, I should fly to throw myself at the King's feet, and offer to him the testimony of my ever-unvarying attachment. I have long grieved that misrepresentations have estranged his Majesty's mind from me; and the most anxious wish of my heart is for the opportunity of dispelling that coldness. Every consideration renders this distance most severely painful. My first object is the gratification of the

feelings of affection, leaving all else to the spontaneous dictates of my father's kindness; and, if any public view can mingle with this sentiment, it is the incalculable importance to his Majesty and to the country, of the whole Royal Family appearing united in a moment so awful as the present.

"I am ever, my dearest Mother,

"Your dutiful and affectionate Son,

"GEORGE P."

Her Majesty's answer was in these words: —

"My dearest Son, "Kew, July 4th, 1804.

"I have this instant received, through the hands of Lady Aylesbury, your most affectionate, and, I may say, most joyful letter. I am anxious to acquaint the King with the contents, which I will do at the first opportunity, assuring you that I shall not be behind hand to seize that moment, for which I have so long anxiously prayed, and I trust will be the means of again uniting our too long separated Family, in which event no one has suffered more than,

"My dearest Son,

"Your most affectionate Mother and Friend,

"CHARLOTTE.

"I cannot say more at present, being in such an hurry."

A more formal overture was made on the Prince's part, in a letter to the Lord Chancellor from Lord Moira, who was authorised on that occasion to signify his Royal Highness's earnest wish, that the Princess Charlotte should be placed under the direction of the King, her grandfather, if that should be his Majesty's pleasure. Lord Moira's letter appears to have been dated 17th of July 1804, but is not among those preserved by Lord Chancellor Eldon.

King George III. to Lord Eldon.

"Kew, July 18th, 1804.

"10 m. past 4 P.M.

"The King has this instant received the Lord Chancellor's note, enclosing the one from the Earl of Moira. Undoubtedly the Prince of Wales's making the offer of having the dear little Charlotte's education and principles attended to, is the best earnest he can give of returning to a sense of what he owes to his father, and indeed to his country, and may, to a degree, mollify the feelings of an injured father; but it will require some reflection before the King can answer how soon he can bring himself to receive the publisher of his letters.* So much he can add at present, that if he takes the superintendence of his grand-daughter, he does not mean to destroy the rights of the mother; that therefore the Princess of Wales, whose injuries deserve the utmost attention of the King, as her own conduct has proved irreproachable, and the attention† to what sum the Prince is to pay for the maintenance of the child, though any thing which exceeds what he receives on that head from the public, must undoubtedly be exonerated by the King.

"To-morrow the Recorder makes his report at two. The King wishes, prior to that, to see the Lord Chancellor.

"GEORGE R."

King George III. to Lord Eldon.

"Windsor, Aug. 20th, 1804.

"Though the King trusts his excellent Lord Chancellor felt himself authorised on Saturday to acquaint the Prince of Wales, that in consequence of what the Earl of Moira has been authorised to express, his Majesty is willing to receive the Prince of Wales on Wednesday, at Kew, provided no explanation or excuses are attempted to be made by the Prince of Wales, but that it is merely to be a visit of civility, as any retrospect could but oblige the King to utter truths, which, instead of healing, must widen the present

* Referring perhaps to the correspondence on the Prince's offer of military service. — Ann. Reg. 1803, pp. 564, &c.

† Sic in orig.

breach, — his Majesty will have the Queen, Princesses, and at least, of his sons, the Duke of Cambridge, present on the occasion; the Lord Chancellor is to fix on twelve o'clock for the hour of the Prince of Wales's coming to Kew. The King cannot conclude without expressing his earnest wishes that the union to take place on Wednesday in the Scott family, may prove a source of happiness to them, as his Majesty must ever be a sharer in any event that may add to the domestic felicity of his Lord Chancellor.

"GEORGE R."

King George III. to Lord Eldon.

"Windsor, Aug. 20th, 1804.

"The King received yesterday evening, the Lord Chancellor's answer to the letter wrote that morning, and this instant, the one notifying that the Prince of Wales will be at Kew at the appointed hour.

"His Majesty takes this opportunity of communicating the letter he wrote to the Princess of Wales, and her answer; and has only to add, that in the interview he had yesterday at Kew with the Princess, her whole conduct and language gave the greatest satisfaction. She will entirely be guided by the King, who has directed her to state whatever she pleases to the Lord Chancellor, as the person alone to be trusted by her in any difficult occasions that may arise. She is deserving of every attention, and therefore strongly recommended by the King to his Lord Chancellor. The Earl of Dartmouth, in her family arrangements, is also to be consulted.

"The Lord Chancellor is desired to return these letters.

"GEORGE R."

Before the appointed time, however, the Prince, as the Chancellor related to the present Lord Eldon, changed his mind, and desired the Chancellor to tell the King he would not go. The Chancellor ventured an expostulation; to which the Prince replied, "Sir, who gave you authority to advise me?" Lord Eldon

expressed his regret that he had offended his Royal Highness in doing so; "but then, Sir," continued he, "I am his Majesty's Chancellor, and it is for me to judge what messages I ought to take to his Majesty: your Royal Highness must send some other messenger with that communication: I will not take it."

It may be inferred, however, from the next letter, that the Prince afterwards employed the more decorous plea of indisposition, as his excuse for not waiting upon his Majesty:—

King George III. to Lord Eldon.

"Kew, Aug. 22nd, 1804.
"10 m. past 1 P. M.

"The King, soon after his arrival here with the Queen and his daughters, found the Dukes of Kent and Cambridge, since which, the Lord Chancellor's letter has been brought by a servant of the Prince of Wales. The King authorises the Lord Chancellor to express to the Prince of Wales his sorrow at his being unwell; that in consequence of this, his Majesty will postpone his interview with the Prince of Wales until his return from Weymouth; and then, as was now intended, it will be in presence of his Family at Kew, of which the Lord Chancellor will be empowered to give due notice to the Prince of Wales.

"GEORGE R."

The time now approached for the union, alluded to in the King's notes of the 29th of June and 20th of August, as about to take place between the Chancellor's eldest son, the Honourable John Scott, and Henrietta Elizabeth, daughter of Sir Matthew White Ridley, Bart., of Blagdon, in Northumberland. The following letter from Lord Eldon to Lady Ridley appears to have been written shortly before the wedding:—

"Dear Lady Ridley,

"As Lady Eldon's secretary, I express her obligations to you for your kind note; for myself, allow me to acknowledge my own. The King very graciously told me to deliver a message to her that she had made me a chancellor, and that I should have made myself but a curate. So you see how little credit we males have for all our exertions, and how much you ladies run away with. But I must not be mortified with the truth. It is a very considerable addition to her achievements, that she has enabled me also to entitle myself to the expressions of good opinion which your letter contains; I am so fond of them, that I allow myself perhaps too readily to believe that I deserve them. A thousand thanks to you for your postscript which brings me *Miss R.'s best love:* were I again but just arrived at the years of discretion, and nobody could be at liberty to suspect me of loving her but for herself, *i. e.* in other words, if she was about as poor as I then was, I am tempted to think that I might use her so ill as to tell her that, if she pleased, we would struggle together through five-and-twenty such years as I have gone through:—which assure her, I would not do to attain any earthly object, short of the comfort of convincing a person, whom I much loved, that, if I prevailed upon her to act very foolishly for my sake, there was nothing which I would not endure for hers.

"With warm regards to all the family,

"Believe me yours truly,

"ELDON."

The nuptials of Mr. Scott with Miss Ridley were celebrated on Wednesday, the 22d of August 1804, in the church of St. Marylebone, London.

It will be remembered that, in 1783, when Lord Eldon, then Mr. John Scott, first became a candidate for the borough of Weobly, he was received and lodged in the house of Mr. Bridge, the vicar, who, having a daughter then a young child, took a jocular promise from him, that if he should ever become Chancellor, and the little girl's husband should be a

clergyman, the Chancellor would give that clergyman a living. Now comes the sequel, partly related by Lord Eldon himself to Mrs. Forster. After telling her of the original promise, he proceeds:—"Years rolled on,—I came into office: when one morning I was told a young lady wished to speak to me; and I said that young ladies must be attended to, so they must show her up. And up came a very pretty young lady, and she curtsied, and simpered, and said she thought I could not recollect her. I answered I certainly did not, but perhaps she could recall herself to my memory; so she asked if I remembered the clergyman at Weobly, and his little girl to whom I had made a promise. 'Oh, yes!' I said, 'I do, and I suppose you are the little girl?' She curtsied, and said, 'Yes.' 'And I suppose you are married to a clergyman?' 'No,' she said, and she blushed, 'I am only *going to be* married to one, if you, my Lord, will give him a living.' Well, I told her to come back in a few days; and I made inquiries to ascertain from the bishop of the diocese, that the gentleman she was going to be married to was a respectable clergyman of the Church of England; and then I looked at my list, and found I actually had a living vacant that I could give him. So when the young lady came back I told her she might return home and get married as fast as she liked, for her intended husband should be presented to a living, and I would send the papers as soon as they could be made out. 'Oh, no!' she exclaimed, and again she simpered, and blushed, and curtsied; 'pray, my Lord, let me take them back myself.' I was a good deal amused: so I actually had the papers made out, and I signed

them, and she took them back herself the following day. Is it not remarkable that I should have given that promise in early life, and that it should actually have been fulfilled?"

In one or two particulars, Lord Eldon's memory of this little incident seems to have been inaccurate; but they are of no importance to the point of the story. The fact turns out to be, that the young lady's application to him was not generally for *a* living, but for *the* living of Stanton-upon-Arrow, in Herefordshire. A couple of months before, she had written him the following letter, which was found among his papers: —

"My Lord, "Weobly, July 9th, 1804.

"I hope you will excuse the liberty I take in addressing you, and also reminding you of a promise you did me the honour of making, in favour of the Rev. Thomas Jones of Weobly, in case the living of Stanton-upon-Arrow should become vacant and you had the disposal of it. The present incumbent, Mr. Guest, is now extremely ill, having had two or three paralytic strokes, and his decease expected every day. I hope you will pardon my mentioning the above, which I should not have done but from fear that it might in so long a time have escaped your recollection, as there is no doubt you will have many applications for the living, though it is a very small one.

"I am, with the greatest respect,
"My Lord,
"Your Lordship's
"Most grateful and most obedient servant,
"SOPHIA BRIDGE."

An old female servant, who lived with Mr. Guest, and afterwards with Mr. and Mrs. Jones, relates that when Mr. Guest was drawing towards his end in 1804,

a person was kept in waiting to carry the intelligence of his death to Miss Bridge. The event happened on the evening of Friday, the 14th of September. Either on the Saturday, or on the Monday, Miss Bridge started for London, and there it was that she got access to the Chancellor; not without great resistance on the part of his servants, from whom, however, she would take no denial; and she returned into Herefordshire, bringing back with her the presentation for Mr. Jones, who was in actual possession of the living before the month was out.

It might well be supposed that the marriage would now take place immediately; but Mr. Jones, having secured the living, exhibited a lukewarmness which contrasts very uncreditably with the activity, enthusiasm, and devotedness of his benefactress. The old servant relates, that the marriage did not take place till more than two years afterwards, and that many supposed it never would. At length, however, it was solemnised, by the Rev. Jonathan Williams; whose daughter's husband, in a letter to a friend of his, has corroborated the story of the bridegroom's backwardness, relating that "Jones would have jilted the lady, but was shamed into the fulfilment of his engagement by the friends and relations of both parties." The same letter, after stating that the wedding took place at Stanton, adds, "Miss Bridge, with her party, arrived there from Hereford in a post-chaise. *She refused, however, to enter the parsonage-house until she did so as his wife.*"

The whole history — the energy of the journey to London, the mortified but yet enduring attachment, the womanly spirit that withheld her from

entering, but as its mistress, the house which she had gained and given to its ungrateful occupant — all these things leave a high impression of this lady's character. Surviving her husband, and being left in indigent circumstances, she again bethought her of her early patron: "and then," says the same letter, "she applied to Lord Eldon, to obtain for her an admission into a recently instituted establishment, near Bath, for the support, maintenance, comfort, and benefit of the widows of clergymen and others." Lord Eldon not only complied with her request, but sent her money to defray the expenses of her removal.

It will be remembered that Lord Eldon, after having, on his accession to the Great Seal, appointed Mr. Moises to be one of his own Chaplains, took an early occasion to offer him some more solid preferment, which Mr. Moises, with the utmost gratitude and respect, declined, on account of his advanced age. Lord Eldon, wishing to give his worthy preceptor an opportunity for reconsidering this resolution, now offered him another benefice, together with some advancement for both his sons. The consistent and venerable old man returned an answer, which, however quaint and ungainly in point of style, is good evidence of his high principle and sincere piety: —

"Newcastle, Sept. 29th, 1804.

"My dearest Lord, and generous Patron,

"Never have I been upon any occasion so much at a loss for words to express the vivacity of my feelings, as at this moment. It hath been my destiny, through the whole of my life, not to have many calls of gratitude to any other than

your Lordship; indeed, no favours beyond mutual civilities have been received by me, excepting from yourself; nor is this spoken with the least regret or in accents of complaint; for I could never have supported myself under the weight of any solid obligation, unless I might have indulged to boundless respect and esteem, with credit from the distinguished worth of the benefactor: and it is this individual circumstance, which has rendered your repeated remembrances of me so exquisitely relishing.

"The benefice, your Lordship is so good to offer, would have been most acceptable to me, if I had possessed strength to discharge its sacred duties with effect. I am this day, only within a few months of closing my 83d year, and of course begin to experience the approach of infirmities, not visible to others because not complained of, but which I feel myself.

"My son William most gratefully will exchange his rectory of Yelling for the vicarage of Felton, because it will give him a handsome establishment in his native county, and at the same time free him from the painful consciousness of non-residence. For now he will have easy opportunities of knowing his people and inspecting their manners.

"Hugh has been passing a few days at Wallington, and returns on Monday; when he shall do himself the honour of addressing his duty and thanks to his liberal benefactor. The young man is, I believe, heartily tired of the insipidity, the uselessness, the insignificance, of a college life without employment; and his prospects of preferment from thence are so distant and so dim, that I cannot but suppose he will rejoice in being settled in a reputable incumbency by the very highest and most respectable patronage. But I have strangely forgot myself by writing so long a letter, and yet I must entreat that my most respectful compliments be tendered Lady Eldon, and that she be assured that I often recollect my early acquaintance with much satisfaction.

"And now, my good Lord, from a heart burning with gratitude, veneration, and love, allow me to profess myself your Lordship's for ever obliged, most dutiful Chaplain and Servant,

"HUGH MOISES."

Toward the close of the autumn, the Chancellor appears to have paid a visit to their Majesties at Weymouth. On his road back he met the Miss Farrers travelling thither, and the carriages of both parties were halted for the exchange of a little conversation. He made this incident the subject of a lively letter to one of them a few weeks afterwards.

Lord Eldon to Miss Frances L. Farrer.—(Extracts.)

(About December, 1804.)

"I hope you have all been well since I had the little conversation with you on the King's highway. I think his Majesty would have given me his gracious pardon, if I had robbed Mrs. Farrer of both of you. Our meeting was a most sweet incident in a dull journey; but such is the strange constitution of such a being as I am, that, the moment I lost sight of you, instead of being grateful for the happiness I had had, the ray of cheerfulness, which I had seen during our short intercourse, increased, by the contrast, the dull scene which a long solo in my own company presented to me. I hope you all liked Weymouth much; only remember another year to come there the day *before* I leave it.

* * * * *

"This place is all run mad about young Roscius, and this little boy is said to be the very greatest man that ever trod the boards of old Drury or Covent Garden. In short, there is such a rage about him, that I can't find that there is a young lady in London, who would not abandon for ever the dearest idol of her heart, if he presumed to doubt whether this little fellow is not monstrous great."

CHAPTER XXI.

1804, 1805.

EDUCATION OF THE PRINCESS CHARLOTTE, AND DIFFERENCES OF THE KING AND PRINCE OF WALES RESPECTING IT: THEIR LETTERS: MEMORANDA AND LETTERS OF THE LORD CHANCELLOR, MR. PITT, AND LORD MOIRA. — ENDEAVOURS OF MR. PITT TO STRENGTHEN THE MINISTRY: LETTERS OF THE KING AND THE DUKE OF KENT. — HABEAS CORPUS IN IRELAND. — LORD ELDON AT CARDS. — UNIVERSITY-COLLEGE CLUB.

THE meeting appointed between the King and the Prince having, by reason of the Prince's alleged indisposition, been deferred till the return of their Majesties from Weymouth at the close of the autumn, the King then renewed the appointment for an interview, the result of which he thus communicates to the Chancellor: —

King George III. to Lord Eldon.

"Windsor Castle, Nov. 13th, 1804.

"The King is so sensible of the attachment to his person of his Lord Chancellor, that he thinks it right to acquaint him that the interview yesterday at Kew was every way *decent;* and, as both parties avoided any subjects but those of the most trifling kind, certainly it has done no harm, and leaves it to the Prince of Wales's future conduct to show whether the sentiments the Earl of Moira flatters himself to have found are genuine.

"GEORGE R."

On the subject of the same interview there is a note from Mr. Pitt to Lord Eldon, which leaves no

very favourable impression of some of the persons then admitted to the Prince's confidence: —

"Downing Street, Monday, ½ past 6,
"My dear Lord, (Nov. 12th, 1804.)

"The account I have just had of the interview tallies in the main with that sent you; but with the addition of great *lamentations* at having found the King so much *broken in all respects*. I find great efforts may be expected to be immediately made to prevent any further progress towards real reconciliation; but still my informant thinks the disposition is favourable. Some particulars have been mentioned to me, which makes me think it material to remain within reach of further communication; and I have, therefore, determined to give up my visit to my brother, and shall remain in town.

"Faithfully yours,
"W. PITT."

The professed object of the Prince's overture to the King, having been to place in his Majesty's disposal the arrangements for the education of the Princess Charlotte, the following paper, in the nature of an instruction for the Chancellor on this important matter, was inclosed to him in a note from the King dated 22d November 1804: —

"Enclosure. — The Prince of Wales having, through the Earl of Moira, expressed his wish that the education and care of the person of his daughter should be placed under the immediate inspection of the King, his Majesty is willing to take this charge on himself, and has prepared a house at Windsor for the reception of the Princess Charlotte. The sum now issued each quarter, out of his Majesty's Civil List, for the maintenance and education of the young Princess, should in future be paid into the hands of the person who shall be named by the King, to defray those expenses; and such additional charges as may arise from the change of establishment will be defrayed by the King.

"His Majesty proposes to name a Bishop to superintend Princess Charlotte's education, as it cannot be that alone of a female; but she, being the presumptive heir of the crown, must have one of a more extended nature. His Majesty also thinks it desirable that the Bishop should fix on a proper clergyman to instruct the young Princess in religion and Latin, and daily to read prayers: that there should be another instructor for history, geography, belles lettres, and French; and masters for writing, music, and dancing; that the care and behaviour of the Princess should be entrusted to a governess; and (as she must be both day and night under the care of responsible persons) that a sub-governess and assistant sub-governess should be named.

"These seem the necessary outlines, to form such a plan as may make so promising a child turn out, as it is the common interest of the King and his family, and indeed the whole nation, eagerly to wish."

This paper was communicated, under date the 23d November, by the Chancellor, to the Prince, who was dissatisfied with it, and returned it to the Chancellor, desiring that he and Mr. Pitt would make certain explanations to the King. After several letters between the Prince and the Chancellor, the King's displeasure against his son evinced itself in the following note: —

King George III. to Lord Eldon.

"Windsor Castle, Dec. 16th, 1804.

"The King, though he has banished every spark of irritation and impatience, from feeling truth and fair dealing is the honourable line to combat misapprehension, chicane, and untruth, has, with stoical indifference, waited the arrival of some information from his Lord Chancellor. The letter before him states that at length the Earl of Moira is summoned to town, consequently, a quicker progress is soon to be expected. The King will certainly be at the Queen's Palace on Wednesday, at two o'clock, when he trusts the Lord Chancellor will bring

him a copy of the Earl of Moira's paper of last July, wherein it is expressly offered that the King should have the sole and exclusive care of the person and education of his dear Granddaughter; to which the Lord Chancellor was authorised to declare that his Majesty, in taking the superior direction, never intended to destroy the due inspection and parental rights of both parents.

"GEORGE R."

A good deal of correspondence took place in the course of the same month of December 1804, between the Chancellor and Lord Moira, respecting the construction to be put on certain papers which had passed to and from the negotiating parties. "We shall not get on," says Lord Moira, in a letter to the Chancellor, dated St. James's Place, December 24th, 1804, —

"unless your Lordship will apprize his Majesty what is the real pressure on the Prince's mind. Out of a fitting delicacy, and from a wish to spare his Majesty the unpleasant necessity of entering into the causes of his dissatisfactions, his Royal Highness directed me only to specify as a condition, that Princess Charlotte was to be committed to the care of his Majesty *exclusively*.* But I had the honour of explaining to you that this was meant to bar all interference on the part of the Princess of Wales. Most unfortunately there happened, just at the moment when the arrangements were to be made, a more marked display of intercourse between his Majesty and the Princess of Wales, than had taken place for a long time before. Whether this may have had relation to the establishment of the Princess Charlotte or not, is no matter. The public, arguing from appearances, so connects it; and that is sufficient to rouse the Prince's apprehension. Hence His Royal Highness laid particular stress on this point, that

* The force of this word, as used in Lord Moira's first letter of 17th July 1804, is much urged on the Prince's side, throughout this correspondence.

he should *seem** to be acting solely upon what he had understood to be the *King*'s wish. With this principle, the preamble of the paper, dated 23d of November, did not agree. The differences now existing may be easily remedied by explanation; but they will not be surmounted without it. I have, at the same time, the happiness to assure your Lordship, that nothing can breathe more duty, or more ardent affection to the King, than every sentence I have heard from the Prince in the discussion of this subject.

"I have the honour,

"My Lord, to be, with perfect respect,

"Your Lordship's most obedient and very humble Servant,

"MOIRA.

"The Right Hon. the Lord Chancellor."

The next two documents were found among the papers of Lord Eldon. The first is indorsed by him, "M^dm. drawn at Mr. Pitt's, not formally delivered over. "26th December 1804."

"The Prince's notion is, that if the Princess of Wales shall appear to have interference in the original arrangement, or shall have the Princess Charlotte subsequently under her guidance, his Royal Highness will be liable to the misrepresentation, that the King has sought to take his daughter out of his hands upon some charge of neglect."

Memorandum for the Lord Chancellor (probably prepared by Lord Moira).

"Dec. 26th, 1804.

"The point upon which the Prince rests is this: — That it is requisite the arrangement should be entirely between the King and him; and that the Princess of Wales ought not to

* In a subsequent letter, 27th Dec. 1804, Lord Moira desired to substitute the word "appear," lest the word "seem" should imply that the Prince was "indifferent to the *essential*, provided the *ostensible* was secured."

have, or appear to have, any interference in it. This, of course, is not understood to affect his Majesty's pleasure, as to any communication he may think fit to make to the Princess. The Prince has not the most distant notion of preventing the Princess of Wales from having all the intercourse with Princess Charlotte which her Royal Highness has hitherto held; nor does his Royal Highness object to her residence in the house prepared at Windsor, in her occasional visits there, provided such residence be not so long as to countenance the idea which the Prince wishes to avoid."

Memorandum, by Lord Eldon.

"26th December, 1804.

"At Mr. Pitt's this morning two points were stated.

"First, That the Prince wished to nominate the governor, governesses, &c.

"Secondly, As to the Prince's sending for Princess Charlotte to Carlton House.

"Memorandum. The former of these points was mentioned also, and particularly by the Prince, at Carlton House this day, when Lord Moira and I waited upon him, the Prince having first stated that the King understood that he, the Prince, would not see the Chancellor, which he said was a *strange fabrication of the King*, or a malicious suggestion of some other person. He said he was advised that he had the right, and that it was his duty, to nominate governors, and mentioned Lord Thurlow as of opinion, that the present twelve Judges would so hold: — that the ten, who held otherwise in 1717 were wrong: — that the preamble in the Royal Marriage Act made no difference (his Royal Highness so stating, when I mentioned that I thought Lord T. was not always of the opinion now stated). I further said, that those who advised his Royal Highness properly, would advise him as the Prince of Wales who might be King. That I apprehended that nothing could be so mischievous as litigating a point of this kind; that I was not aware that his Majesty had any such intention; that, in the plan of education and in the appointment of governors, he wished to pay due regard to both the parents; and that I conceived, if there was any

question upon the right, or his Royal Highness was so advised, that the King, after communicating his intentions as to the persons to be nominated to his Royal Highness, and taking along with him his concurrence, and fairly attending to all his objections, might nominate in such a way as that the transaction should leave the question of right exactly as it stood at this moment, neither admitting, nor denying, nor asserting, that it was either in the King or the Prince; but that if this business ended, as it was to be hoped it would, upon the fact of the propositions that had passed, no question of right should be in any degree prejudiced or affected. The Prince stopped me, and said it was unnecessary to say more — it was quite right, or to that effect.

"In substance this was what passed, when Lord Moira, Mr. Pitt, and myself conversed together in Downing Street.

"Upon the other point, not a word was said at Carlton House. At Mr. Pitt's it was stated, both by Mr. Pitt and by myself, that we apprehended there could be no objection to the Prince's sending for Princess Charlotte to Carlton House occasionally, her stay there being, in length of time, such as made her residence in the nature of a visit, and consistent, in that view of it, with her being under the King's guidance. It was urged that the state of the King's health might make a difference; to which it was answered, that nothing could be said or stipulated with reference to such a circumstance, for obvious reasons.

"The Prince, in his conversation to-day, was particularly anxious that he should be understood to be acting upon the King's wish to have the care of the Princess, and that his conduct was regulated by a desire to consult his Majesty's wishes, and not from the want of great anxiety to regulate this important matter himself."

In pursuance of the good understanding which had now been attained, the following paper was prepared by Mr. Pitt and the Chancellor on the King's behalf, and communicated to the Prince about the close of December: —

(End of Dec. 1804.)

"His Majesty, in the paper which the Lord Chancellor communicated by the King's command on the 23d November to the Prince, referred in the preamble to the Prince's wish, expressed through the Earl of Moira. That wish was expressed in the Earl's letter of the 17th July last, in which the Lord Chancellor was requested to tender the Prince's humble duty to his Majesty, with the profession that, if it was his Majesty's inclination, nothing could be more highly gratifying to the Prince than to see the Princess Charlotte taken under the King's special direction.

"His Majesty, therefore, in the preamble of the paper, referred to the wish which had been so communicated on the part of the Prince, and has accordingly considered the communication through the Earl of Moira, as representing that the Prince wished to see the Princess Charlotte taken under his Majesty's special direction, in consequence of the Prince's understanding that such was his Majesty's wish and desire.

"The King repeats, what he has before stated to the Lord Chancellor and Mr. Pitt, and which he has been informed they represented to the Earl of Moira, that his Majesty regarded the communication from the Prince, founded upon his desire to gratify what he understood to be the King's wishes, as a step very acceptable to his Majesty, and conformable to the sentiments of duty which the Prince had expressed.

"His Majesty has uniformly stated, that, in his taking upon himself the care and management of the Princess Charlotte, he must be understood to do so in a sense consistent with all the attention due to each of the parents of the Princess.

"His meaning was to form the best plan he could for the education and governance of the Princess, and to refer that plan to the consideration of the Prince, and to make such communications respecting it to the Princess of Wales, as the nature of their respective relations to the Princess Charlotte seemed to require. It will be his Majesty's earnest desire to act according to this principle.

"His Majesty has great satisfaction in believing that there is reason to think, that the Prince is likely to concur in the measures proposed by his Majesty, if the misapprehensions

which have been entertained are removed; and he trusts that the explanations which have taken place may effectually remove them. If that should happily be the case, his Majesty will proceed to state, for the consideration of the Prince, the names of the persons, who may appear proper to fill the very important stations mentioned in his Majesty's paper; and as this measure originated and has been carried on in consequence of the Prince's having expressed a wish to meet his Majesty's inclination, it will be most satisfactory to the King that the arrangement should be completed upon the same footing, and that his Majesty's choice should be made with the Prince's entire concurrence."

The Prince's answer to this document has not been found; but its purport appears from the following letters of the King: —

King George III. to Lord Eldon. — (Extract.)

"Windsor Castle, Jan. 5th, 1805.

"The King received the Lord Chancellor's note, accompanying the paper of the Prince of Wales, intended as an answer to the one drawn up by the Lord Chancellor and Mr. Pitt; which having met with his Majesty's approbation, he sent a copy of it on the 31st of last month to be delivered or sent by the Lord Chancellor to the Prince of Wales. His Majesty entirely joins in opinion with the Lord Chancellor and Mr. Pitt, that undoubtedly the paper contains expressions liable to observations; but, if the King was to enter into such minute discussion, the main object might be retarded: and, as truth, and what he owes to his subjects, have alone dictated his conduct, provided right is effected, he will not stoop to cavilling on words, which is ever the path of those actuated by meaner sentiments. The King has therefore drawn up a paper this morning, which he trusts is consonant with the opinion contained in the Lord Chancellor's note, which if the Lord Chancellor views in the same light, he desires may be forwarded to the Prince of Wales.

"GEORGE R."

The enclosure, contained in this note, is an authority from the King to the Chancellor, to acquaint the Prince with his Majesty's satisfaction at the Prince's answer, and to inform his Royal Highness that the King will shortly transmit to him, for his consideration, the names of proper persons to undertake the care and instruction of the Princess Charlotte; "who," adds his Majesty,

"has every gift from nature to render her capable of profiting by that care and attention, which may render her in future an honour to her family, and a blessing to those, if it pleases the Almighty to preserve her life, who must, in a future day, acknowledge her as their Sovereign."

The young Princess, thus consigned to the care of the King, presently became an object of great interest to his Majesty, as will be seen from a few short extracts of his letters to Lord Eldon: —

Windsor Castle, Feb. 25th, 1805.

"It is quite charming to see the Princess and her child together, of which I have been since yesterday a witness; and I must add that Lady de Clifford's conduct is most proper, and will also be highly conducive to her meeting with my approbation.

"The Lord Chancellor's business is full excuse for his non-appearance this evening; but the King could not allow that any festivity should be under his roof to which the Lord Chancellor was not invited.

"GEORGE R."

"March 1st, 1805.

* * * * * *

"From what he has seen of his dear granddaughter, in the few days she has been there*, he doubts not but that, with the proper attention of those now placed to superintend her

* At Windsor.

education, and the upright conduct, in all situations, of the governess who is to have the care of her, she will prove a blessing to her relations, and an honour to her native country.

"GEORGE R."

On all questions, however, relating to the Prince, the King's letters to the Chancellor, of which there are many more, continue to be of an uneasy character. Thus, in directing the Chancellor to prepare an answer to a paper of instructions drafted by the Prince for the guidance of the persons entrusted with the Princess Charlotte's education, the King describes that paper as a "very improper and unfair" one, and proceeds: —

"March 10th, 1805.

"His Majesty must either have the whole care and superintendance of the person and education of the Princess Charlotte, or entirely decline any interference or expense; by this he in no means proposes to interfere with her visiting both the Prince and Princess of Wales when they require it, and will for that purpose fix her the next winter at Kensington for that season, that the Prince and Princess may with less inconvenience visit her, or send for her at that season to their respective houses; but Windsor will be her residence for the greatest part of the year, where she will have the advantage of excellent air, and a retired garden, which will enable her, quietly and with effect, to pursue her studies, which certainly as yet have been but little attended to. The Lord Chancellor is desired to take a copy for the King of this returned paper of instructions, and prepare the paper to be transmitted to the Prince of Wales, who certainly means further chicane.

"GEORGE R."*

* NOTE BY THE PRESENT EARL. — The letters from King George III., from the commencement, until April 1805, show but little variation in his usual clear handwriting: those subsequently written in his own hand strongly indicate a progressive loss of sight. The latest which have been found among Lord Eldon's papers are of the years

In point of manner, the Prince has the advantage throughout these negotiations. He never forgets the respect due to his father and Sovereign, though the King takes little pains to conceal his unfavourable opinion of his Son. The King was too harsh in his general tone toward the Prince; and the Prince, upon every point with which his Consort was connected however remotely, was unjust and sensitive, even to soreness. Between these very adverse dispositions of the Sovereign and the Heir apparent, any mediator, less prudent and conciliatory than Lord Eldon, would not only have perplexed himself, but probably lost the good opinion of both the contesting parties. It was his rare wisdom and fortune, in preserving the regard and esteem of the one, to lay * a foundation for the lasting friendship of the other.

Mr. Pitt had been anxious to strengthen his Ministry during the vacation, by individual reinforcements from the powerful ranks of the Opposition. But Lord Grenville, Lord Spencer, and Mr. Windham, as well as the whole party under the direction of Mr. Fox, adhered immovably to their demand of a comprehensive Ministry; and to such an arrangement the King's objection against Mr. Fox opposed obstacles altogether insurmountable. The only resource of Mr. Pitt was therefore to repair his ancient fellowship with the minister whom he had displaced. Mr. Addington, in returning to office,

1809 and 1810; these are by the hand of a secretary, and have in autograph the signature only, written with extreme irregularity.

* See hereafter a letter from the Prince to the Chancellor, dated 8th May 1810.

would, both by his parliamentary connection, and by that personal favour of the Sovereign which he was known peculiarly to enjoy, be likely to improve the position of the Government in some of its most important relations: and accordingly, soon after Christmas, he was brought back into the Cabinet as President of the Council, with the title of Viscount Sidmouth, accompanied by his friend the Earl of Buckinghamshire as Chancellor of the Duchy of Lancaster. The new connection was not destined indeed to be of long duration; but it gave an appearance of additional force to the Ministry at the commencement of the session of 1805, which was opened on the 15th of January by the King in person. It is to this reinforcement that the King seems to allude, in the following note to Lord Eldon, enclosing two letters which probably communicated the arrangement for the alliance.

"Windsor Castle, Dec. 25th, 1804.

"The King, with many compliments on * the season, sends with infinite pleasure the two letters he has received this morning (from Lord Hawkesbury and Mr. Pitt) to his Lord Chancellor. This reconciliation will give ease, and add much strength to *his Majesty's Administration*, at which no man will more sincerely rejoice than the Lord Chancellor.

"GEORGE R."

The letter which follows, from the Duke of Kent, the father of Her present Majesty, is also an assurance of support to the government of King George III., toward whom his Royal Highness expresses his dutiful attachment, in the unaffected language of a loyal son and soldier.

* Sic in orig.

The Duke of Kent to Lord Eldon.

" Saturday Morning, Feb. 9th, 1805.
" My dear Lord, " Kensington Palace.

" Fearful lest your Lordship should, in the multiplicity of business, in which your time is so much engaged, forget what I did myself the pleasure of saying to you (relative to my attendance in Parliament) on the day when the session was opened, and from that cause, that I may at any time be absent, when my presence would have been wished for by his Majesty's Government, I now do myself the pleasure to address you these lines, in order to repeat my readiness to attend in the House of Peers, whenever your Lordship is so good as to send me the slightest direct intimation that my appearance is wished for. In doing this, I am anxious your Lordship should understand, that I am actuated by that principle I have ever professed, of supporting the King's Government, and never taking any part in political disputes, for which I have the utmost abhorrence, and indeed am less fit than any other member of our House, having never given my attention to any other pursuit but that of my own profession. *The King* is *my* object: to stand by *him* at *all* times, my *first* duty and my *inclination;* and I think I cannot prove this more strongly, than by pledging myself, as I did when first I received my peerage *spontaneously,* always to support *his* servants, where my feeble voice could be of use. I *have* ever acted up to this profession, and I ever *will;* but it is not my system to attend Parliament otherwise; therefore, I solicit to be informed by your Lordship, *when* I *am* wanted, that I may not *then* be absent. Having said this, I now beg leave to add, that, as the King remains at Windsor till Tuesday the 19th instant, it is my wish to be a couple of days with him in that time, and I therefore am anxious to learn from your Lordship if I shall be wanted in the course of the next week, and *on what days,* so as not to be from here on such as you shall name.

" With a thousand apologies for this intrusion, and sentiments of the highest regard and esteem, I remain,

" My dear Lord, ever yours
" Most faithfully and sincerely,
" EDWARD."

The state of Ireland continuing to be full of danger, it was deemed expedient still further to continue the suspension of the Habeas Corpus in that country. A bill for this purpose having passed the Commons, Lord King, on its arrival in the House of Lords, moved that an account should be given of the conditions upon which persons confined under the suspending act had from time to time obtained their discharge. This motion was withdrawn; but Lord Grenville, on the 21st of February, when the second reading was moved, renewed the proposal with this qualification, "except so far as the same may relate "to informations respecting any traitorous proceed-"ing." Lord Hawkesbury objected to the principle of such a motion; and, when it was further pressed by Lord Grenville,

Lord Eldon said, that it would be better to let the Suspension Bill expire, than to acquiesce in Lord Grenville's suggestion; and that there could be no safety in, nor any reasonable expectation of benefit from, the suspension, if such a condition were to be attached to it.

The motion was negatived without a division.

Lord King moved in the House of Lords, on the 8th of March, for a committee to consider of the military defence of the country. The scope of this motion was to censure the military measures of the late and of the present Ministers. Both Governments were defended by the Chancellor; and the motion was negatived.

"The Chancellor's constant attention to the business of his profession," observes the present Earl, "left him but little time for other occupations, especially for those of mere amusement. With the exception of

whist, (at which, though perhaps not very skilful, he was fond of playing in the country until a late period of his life,) he knew scarcely anything of card-playing, even of the most common and simple games. This led, on one occasion, to a rather laughable scene at the palace of King George III. The royal party were playing at commerce; and, through Lord Eldon's bad luck or bad play, he had soon forfeited his three lives. In perfect ignorance, however, that this catastrophe should have been the signal for his retiring from the contest, Lord Eldon kept his seat at the table and continued playing. At last Queen Charlotte, perceiving that all his counters were gone, suddenly addressed him, — 'My Lord Chancellor, you are dead!' Expostulation proving vain, and Lord Eldon, to his own diversion, and that of the company, being made to understand, that, though physically alive and well, he was metaphorically defunct, they proceeded in their game without his being farther allowed to join in it."*

But though Lord Eldon's scanty leisure did not allow him, nor did his tastes, which were wholly domestic, incline him, to partake the festivities or indulgences of general society, yet, among the dinner-clubs which were the fashion of that time, there was one in which Lord Eldon enrolled himself. This was the University-College Club. It had been founded in 1792, and consisted of contemporary members of that College, who

* There is a precedent — not indeed of legal, but of poetical authority — for Lord Eldon's perseverance in the contest after the loss of life: —

———"colui, del colpo non accorto,
Andava combattendo — ed era morto."

Orlando Innamorato, canto liii. ottava lx.

dined together on the first Saturdays of February, March, April, and May, in each year, at what would now be called the early hour of half-past five. The place of meeting was the Crown and Anchor Tavern in the Strand. In May 1804, Sir William Scott being the President, a list of the members was engraven on a large sheet of paper, on which appear the names of Sir William Scott, Sir Robert Chambers, Sir William Jones, Lord Eldon, Mr. Windham, Sir Thomas Plumer, Lord Moira, and other men of high character and station. At the bottom are the words "Engraved by order of the Club, May 1804, as a "memorial of their friendship:"—at the head is a medallion-bust of Alfred the Great, the founder of the College, having for its inscription, the words "Alfredus fundator." This medallion is flanked by two short columns of lettering, being a Latin panegyric on that prince, from the pen of Sir William Scott, in the following words:—

Quisquis es,
Vel Libertatis amans, vel Literarum,
Illius Viri Imaginem
Piis suspice oculis,
Qui Patriam,
Peregrinis Hostibus afflictam,
Domesticâ Morum feritate
Et turpissimâ simul ignorantiâ
Laborantem,
Armis erexit, legibus emollivit,
Scientiâ exornavit.

Si sis Britannus,
Possis etiam gloriari
Militarem Romuli Virtutem,
Civilem Numæ Sapientiam.

Philosophicam Antonini Dignitatem,
Unicè in se complecti
Britannici Alfredi nomen.

W. S.*

* Translation, by the present Earl of Eldon.

Whosoever you are,
Whether a lover of liberty, or of literature,
Look up with reverential eyes
At the image of that man,
Who raised by arms, civilized by laws,
And adorned by science,
His country, previously
Distressed by foreign foes,
And labouring under domestic wildness of manners,
Together with the most degrading ignorance.

If you are a Briton,
You may also be able to boast
That the name of the British Alfred
Singularly comprises within itself
The military valour of Romulus,
The civil wisdom of Numa,
And the philosophic dignity of Antonine.

CHAPTER XXII.

1805, 1806.

ROMAN CATHOLIC CLAIMS: LORD ELDON'S FIRST SPEECH AGAINST THEM. — VOTE OF CENSURE ON LORD MELVILLE. — WITNESSES' INDEMNITY BILL. — LETTERS OF LORD ELDON TO THE REV. S. SWIRE, AND TO THE HON. ELIZ. SCOTT. — DECLINE OF MR. PITT'S HEALTH. — DECEASE OF LORD ELDON'S ELDEST SON, THE HON. JOHN SCOTT: LETTERS OF LORD ELDON AND SIR WILLIAM SCOTT CONCERNING HIS ILLNESS AND DEATH: HIS EPITAPH AND CHARACTER: LETTERS OF MR. PITT, MR. WILBERFORCE, LORD ELLENBOROUGH, ETC. — DEATH OF MR. PITT. — FORMATION OF THE WHIG MINISTRY. — THE KING'S MITIGATED FEELING AS TO MR. FOX. — LORD ELDON'S FAREWELL ADDRESS TO THE CHANCERY BAR: HIS PARTING INTERVIEW WITH THE KING: MEMORANDUM IN HIS JUDICIAL NOTE BOOK RESPECTING HIS ACCEPTANCE AND RESIGNATION OF THE GREAT SEAL.

IT was on the 25th of March 1805, that Lord Grenville called the attention of the country to the claims of the Roman Catholics, by presenting a petition to the House of Lords from the leading men of their body in Ireland. A duplicate of it was presented by Mr. Fox to the House of Commons on the same day. Of this important document, which may be considered as a fair statement of the claimants' case, the substance is added here, on account of the prominent part taken by Lord Eldon, from that time to the end of his life, upon the great subjects which this question involved.

The petitioners, after declaring their attachment to the person, family, and government of the Sovereign, their gratitude for the amelioration of their condition by the laws enacted during his reign, and their "predilection" for "the

admirable principles of the British Constitution," appeal to their conduct in taking certain oaths, and to the sacrifices made by them in refusing others, as proofs of their reverence for obligations so sacred. They refer particularly to the oaths of allegiance and abjuration taken by them; and affirm their belief that no evil act can be justified by the pretence of the good of the Church, or by the command of any ecclesiastical power. They deny it to be an article of the Roman Catholic faith that the Pope is infallible, or that sin can be forgiven at the will of the Pope, or of any other priest or person; and declare that they believe themselves bound to defend, to the utmost of their power, the settlement and arrangement of property as established by law. They state that they have solemnly abjured any intention to subvert the present Church Establishment for the purpose of introducing a Catholic Establishment in its stead, and that they have also solemnly sworn not to exercise any privilege they may obtain to disturb or weaken the Protestant religion or government in Ireland. And they observe that a period of twenty-six years had elapsed since the King and the Irish Parliament, in enacting certain relaxations of the disabilities and incapacities of the Irish Roman Catholics, had declared their "uniform peaceable behaviour for a long series of years." The petition went on to enumerate the then existing disabilities of the Roman Catholics for various offices, civil, naval, and military, and to detail the practical evils thereby endured by them; adverting particularly to the hostile spirit produced against them by the ignominy of exclusion, and to the distinction, which, having conceded to them the elective, yet still continued to deny to them the representative franchise: which closed the avenues of lawful ambition: deprived the Roman Catholic peerage of its share in the legislative representation: and, by refusing to the Roman Catholic Bar the honours of the law, reduced their practice to a pecuniary traffic. After representing the detriment occasioned to the country in all branches of service, civil and military, from the denial of the honours and rewards which are the most powerful incentives to merit, the petitioners declared, that "they do not seek or "wish, in the remotest degree, to injure or encroach upon "the rights, privileges, immunities, possessions, and revenues

"appertaining to the bishops and clergy of the Protestant "religion, or to the churches committed to their charge;" and they urge their request, as conducive to the general strength and happiness of the kingdom, and to the extinction of religious animosities. They pray therefore to be relieved from the operation of the several statutes in force against them, and to be restored to the full enjoyment of the British constitution.

On Friday, the 10th of May, Lord Grenville moved for a committee of the whole House, in order to take this petition into consideration. At four o'clock of the next morning the debate was adjourned to Monday the 13th, on which day the Lord Chancellor made his first formal declaration of resistance to the objects of the petitioners.

Those objects, he conceived, were inconsistent with our Protestant Constitution, which he felt it the duty of the House to transmit to their posterity as pure as they had received it from their ancestors. It had been urged that the petition was presented on behalf of four millions of his Majesty's subjects; but the considerations which should determine the House were the objects and the reasonableness of the petition itself, not the numbers of the petitioners. Whatever was required by the principle of religious toleration had been already conceded to the Roman Catholics. There was some check or some limitation in the case of almost every class of the people. The candidate for office or for parliamentary representation was called upon for tests, for oaths, and qualifications. The Dissenter was admitted only on his conformity with the tests prescribed. The eldest sons of the Scots peers were not admissible into the representation of Scotland. The liberties of the country might be said to be sustained by a system of checks; and exclusions were applied against Protestants no less than against the present petitioners. Nay, the Roman Catholics of Ireland had a greater latitude in the form of their oath of allegiance than was allowed to the Protestant Dissenters of England; for the

Irish Roman Catholics were required only to swear allegiance to the King and his family, whereas the form of the English oath was, to the King and his family, *being Protestants.* The British Constitution was not based upon the principle of equal rights to all men indiscriminately, but of equal rights to all men conforming to, and complying with, the tests which that Constitution required for its security. In order to give due effect to the principle of the Act of Settlement and of the Bill of Rights, the councils as well as the person of the Sovereign should be Protestant. In enlarging upon the danger of surrounding a Protestant King with a Catholic Cabinet, he quoted a saying of Lord Somers, that "the Coronation oath was the Magna Charta of the existing constitution of Britain." Nor could he forget the contumacious conduct of the present Roman Catholic Clergy in Ireland, who assumed, in violation of law, not only the high titular dignities of the Church, but also the ecclesiastical functions of a hierarchy.

The debate continued till six o'clock on the following morning, when the motion for a Committee was negatived by a division of 178 against 49. A motion to the like effect, which was made by Mr. Fox in the House of Commons on the 13th of the same month of May, and on which the debate was adjourned to the 14th, was negatived at five o'clock in the morning of Wednesday the 15th, by a division of 336 against 124.

There was no subsequent debate during this Session of any great permanent interest, in which the Lord Chancellor took a conspicuous part. From May to July, his attention in the House of Lords was most frequently occupied with the proceedings against Judge Fox, and the claims of the Duke of Atholl in respect of the sovereignty and revenues of the Isle of Man.

Meanwhile, however, an event had occurred of a

nature extremely perplexing to the Cabinet, namely, a vote of the House of Commons, which pronounced Lord Melville, then first Lord of the Admiralty, to have committed, when Treasurer of the Navy, "a gross violation of the law and a high breach of duty," in conniving at a misplacement of public money by the Navy paymaster. This vote had been immediately followed by the resignation of Lord Melville, who was succeeded at the head of the Board of Admiralty by Admiral Sir Charles Middleton, thereupon created Lord Barham.

The loss of Lord Melville's energy and talent was a heavy blow to the Government, and especially to Mr. Pitt, who, during so many years of his official life, had been in habits of the utmost reliance on, and confidence in, his able colleague. Mr. Pitt's annoyance was not a little aggravated by the adverse line which Lord Sidmouth and his adherents took upon this irritating question. On the 9th of July, the Commons presented, at the Bar of the House of Lords, their articles of impeachment against Lord Melville; and, on the 10th, Lord Sidmouth and Lord Buckinghamshire resigned their offices, in which they were succeeded, the former by Lord Camden, and the latter by Lord Harrowby. Before the articles were exhibited, a bill had been sent up from the Commons, for securing to the witnesses, who might give evidence on the impeachment, an indemnity as well from any civil as from any criminal proceedings to which they might expose themselves by their examinations. The Lord Chancellor urged, and effected, the rejection of the civil part of the indemnity, on the ground that as a witness has no right to withhold an answer on the

score of its tendency to fix him with a civil liability, a protection against this liability removes no legal obstacle to the discovery of truth.*

The business of 1805 was wound up by a prorogation, on the 12th of July, the Royal speech being delivered by the Lord Chancellor.

The letter which follows will show how little the world and its glories had been able to alienate the heart of Lord Eldon from early affections and simple pleasures: —

"Dear Swire, (Endorsed, July 10th, 1805.)

"I have just this moment received your letter; and I can sincerely assure you that no event of my life has given me greater pleasure, than that of being at last able, by doing anything which could be in any degree acceptable to you, to secure to myself the real comfort which I shall have, if I survive the labours in which I live, in the reflection, during the few years which can remain to a person destroyed by labour, that I had been anxious to testify the affectionate regard, which, for the many years that are gone by, I have entertained, and I have had so much reason to entertain, for you. To prevent all disappointment, I had signed the fiat for your presentation when I wrote to you, and I shall direct the presentation itself to be immediately sealed. I have nothing to ask in return, but that you will continue to think of me with the partiality and kindness which I have so long experienced, and to allow me to hope that I may yet spend some happy day under your roof, secluded for awhile from a selfish, ambitious, interested, luxurious world, that hath not an idea of the comforts of a college commons, or the repast of a parsonage dinner, when the landlord and his host† meet, with the same ideas upon all things, unaffected by the changes and

* 45 Geo. 3. c. 126. See Chap. XXIII.

† Host, in the sense of guest. See observations on the seal of the Newcastle Hoast-men, in the first chapter.

chances of life, which governed them both in the same staircase in college. I have gained much at home by this little incident, for Lady Eldon loves me better every time she remarks that I think of you. With regards to Mrs. S.

"Believe me, with her affection and mine,

"Yours truly and faithfully,

"ELDON."

The next epistle is in a ludicrous vein. It is addressed on the 28th of August in the same year, 1805, to his eldest daughter, who had written for some mourning with very minute instructions to her maid. The following is an extract: —

"Dear Bess,

"We have just received (eight o'clock this Wednesday evening) your letter, composed of five half sheets, quarter sheets, and half quarter sheets, and scraps. Manning and I mean to look into your bottom drawer for your *wooden box*, and then, with your bunch of keys, to rummage your *red box* for the *black things*, and then we shall look into your *white and green box* and collect your handerchief, gloves, bugles, &c., and I hope we shall either find the *rubbish* in the *right box* or the *wrong box*. We shall put every thing *black* into a *white* sheet of paper, and your *black things* and *white things* shall come with Miss Fawcett's *white and black things*. I am glad you think it will not be of any consequence whether we are or not in the *wrong box*, by not being able to find the *white and green box*.

* * * * *

"We *do* see that you wish to have your *black* things, and some how or other will contrive to have you *blackened* either out of the *red box*, or the *green and white box*, or the *right box*, or the *wrong box*.

"As to all other matters * * * * as soon as I know whether I shall be in the *right box or the wrong box* I'll write to you again.

"Yours, with love of all, ever affectionately,

"ELDON."

The succeeding communication is from Mr. Oliver Farrer: —

"During a visit of Lord and Lady Eldon in 1805 to my uncle Mr. Farrer, at Eltham, it happened that the Ocean, a ninety-eight gun ship, was to be launched at Woolwich: and arrangements were made that the whole party from my uncle's should go to witness the sight. On the morning of the day on which the launch was to take place, a letter by express was brought to Lord Eldon at the breakfast table. When he had read it, he said it was a summons to a cabinet council. We all expressed our hopes that he would not be under the necessity of going. With a smile he replied, 'No, I will not go; because, though I may attend other cabinet councils, I never can have another opportunity of seeing the Ocean launched.'

"The carriage being filled with the ladies, and my uncle and James going on horseback (Lord Eldon was no equestrian), he himself proposed and insisted, though it was a very dirty day, that he and I should walk to Woolwich, about four miles. We accordingly started through mud and mire. From the rapidity of Lord Eldon's walking, we were in a dirty plight when we arrived at the gates of the dockyard. In vain we sued for admittance. The gatekeeper was inexorable: 'it was not for such like to be admitted.' In the midst of the party, a Lord of the Admiralty, or some high official, I don't exactly remember who, came up, and upon seeing Lord Eldon, called out, 'My Lord Chancellor, what are you doing here?' Lord Eldon answered, 'Waiting to get in; but not, it would seem, in a likely way to succeed without your aid.' In a moment, on hearing this address, the gate

was thrown open, and we were ushered in, dirt and all, to the grand stand, in which was Queen Caroline (then Princess of Wales). The moment Lord Eldon entered the door, she saw him, beckoned him to her side, and kept him in conversation the whole time of the proceeding, to her gain, but to our loss. During our walk Lord Eldon was (as indeed he invariably was) most kind and entertaining. I well remember our speaking of the profession for which he knew I was intended. He said, 'Oliver, let me warn you, never be ambitious of the highest honour of the law. Believe me when I give you my word, that I have not known a single day of full freedom from anxiety, since I have held the great seals. I have not known real happiness since I exchanged the office of Chief Justice of the Common Pleas for that of Lord Chancellor. If it were to do again, with my present knowledge, nothing should induce me to give up a situation of ease and comfort for the highest honours, accompanied, as they are, by incessant anxiety. As Chief Justice of the Common Pleas I was completely happy.'"

The anxieties and labours of office had now sensibly impaired the health of Mr. Pitt, who had of late been conducting the public business in the House of Commons, almost without assistance, and against an active and keen Opposition. The Anecdote Book has a short but remarkable reminiscence of a conversation with him at this closing period of his life.

"I went with Mr. Pitt, not long before his death, from Roehampton to Windsor. Among much conversation upon various subjects, I observed to him that his station in life must have given him better opportunities of knowing men than almost any other

person could possess; and I asked whether his intercourse with them, upon the whole, led him to think that the greater part of them were governed by reasonably honourable principles, or by corrupt motives. His answer was, that he had a favourable opinion of mankind upon the whole, and that he believed that the majority was really actuated by fair meaning and intention."

The latter part of this year produced events of great importance to the fortunes of the war. The capitulation of Ulm, by which, in October 1805, 30,000 Austrians became the prisoners of Napoleon, had given to France a tremendous superiority in the struggle upon the Continent; but in a few days afterwards her power and pretensions at sea had been absolutely annihilated by the destruction of the united navy of France and Spain off Cape Trafalgar, the dearly-bought triumph which cost the life of Lord Nelson. In December, the scale again turned in favour of France, whose success at Austerlitz, against the combined forces of Austria and Russia, so crippled the strength of the Austrians and depressed the spirit of their Emperor, as to leave the continental states of Europe for many subsequent years under the almost uncontrolled dominion of Napoleon.

Mr. Pitt, who had been the chief artificer of the coalition between Austria and Russia, had been forced, by increasing illness, to Bath, where he received the tidings of this great battle, and of the paralysing convention which followed it; and the intelligence of these astounding events gave an irreparable blow to his drooping constitution. His declining state was a source of great grief and anxiety to Lord Eldon, as

well from personal regard, as in reference to the general condition of the country's affairs, and to those peculiar prejudices of the King which were likely to embarrass the formation of a Government under any other Minister. But Lord Eldon was now about to be visited with an affliction still nearer and deeper, — the loss of his eldest son. On the 10th of December, the family circle had received a joyful addition in the birth of the present Earl: — on the 24th, the young heir became an orphan.

The following particulars of the death of his father are from the Earl himself: —

"My father's last illness was of but brief duration. On the 9th of December 1805, the evening preceding the day of my birth, he had retired to bed very early with a bad cold, being liable to suffer from asthma, but in cheerful spirits, as appears from his having then amused himself in composing a poetical quiz on an exaggerated account of a friend's shooting exploits. Anxiety for my mother's well-doing decidedly aggravated his illness, though there was, on this occasion, no particular reason for alarm. Among other letters written by him consequent on my birth, were three to his mother-in-law, Lady Ridley, on the 10th, 11th, and 12th. In none of them is apprehension of danger intimated respecting the health of any of the parties. The letter of the 12th, being the last he ever wrote, concludes with these words: —

'We are much easier to-day, and I have nothing to think of that is not comfortable upon the subject of *My Two*.

'My poor mother, who was here on Sunday, is confined for the present with a violent cold, and I am effectually in the same situation here (but that I do not regret, I am almost

glad of it,) from the same cause. I am not very likely to quit my ground, you may depend upon it, having no pleasure to pursue *out* of this house while Henrietta is in it.

'Yours, as ever,

'J. S.'

"On Saturday, the 21st, the illness assumed a more serious aspect than before, and my father suffered acutely from violent spasmodic affections, until his decease on Tuesday the 24th."

The succeeding letters show how heavily this visitation was felt by Lord Eldon and his family.

Lord Eldon to Sir William Scott.

"Eight o'clock, Tuesday morning. (Dec. 24.)

"John has had an extreme bad night, and is this morning very ill. My poor daughter-in-law is of course informed as favourably as possible, her own situation requiring it. — 4 o'clock. — The report of the physicians is, that John is worse to-day than yesterday. They still say they will not pronounce there is danger. His pain great, his spirits sinking. May God, in mercy, give him some relief, for the continuance of this cannot be long as it is. With all affection,

"E."

Lord Eldon to Sir William Scott.

"My ever dear Brother, (December 24th.)

"With a broken heart I inform you that, before I had written the last paragraph of the letter I sent by this day's post, my poor, dear, dear John was no more. I am so distressed, and all around me is such a scene of distraction and misery, that I know not what to do. May God Almighty preserve you and yours from what we suffer! His mother is living in my arms out of one hysteric into another; and his poor widow is in a state which can neither be conceived nor described. For myself, I am your ever ever affectionate, but ever ever unhappy brother, "ELDON."

Lord Eldon to Lady Ridley. — (Extract.)

"25th Dec.

"What I write I cannot read again, and I am wholly unfit to write; but to you, as connected with my dear, dear departed son, and with those who will ever be most dear to me, I owe the attempt to try, with what fortitude I can, to relieve, as far as may be, your mind about poor dear, dear Henrietta. That she suffers much, very much, is not to be wondered at; but, thank God! her own health was so much restored, that I hope she has strength to meet her sufferings; and, having been twice with her alone, last night and this morning, I find her mind stored with principles of resignation, virtue, and religion, which lead me to hope that affection and attention will bear her through this almost unexampled calamity. I am to sit with her again this evening.

* * * * * *

"I bless God I have got thus far in this letter. Nature, and a deeply afflicted, very deeply afflicted father's feelings, so unman me, that I must stop here till to-morrow.

"Affection to Sir Matthew and the family from all here.

"Your most heart-broken

"ELDON."

A few days later, Sir William Scott writes to his daughter,—

"Dear Mary Anne,

"I grow more uncertain when I shall get down, for things grow worse in Bedford Square instead of better. Her (Lady Eldon's) grief is still as wild and passionate as ever, without the least abatement. She takes hardly any sustenance and is falling away in such a degree, that I should not be surprised at any consequences that were to follow from the decay of her strength. It is impossible to describe the degree in which my brother is worn down by the constant attentions he is obliged to pay to her. She will hardly suffer him to be out of the room, and, during the whole time he is there, he is a witness to the indulgence of such sorrow, as it is quite impossible for any man to stand. He is much affected in his health. She won't hear as yet of going out of town, which is the only thing that can save her. My brother wishes to take

her, as soon as possible, to Mr. Smith's house, near Harrow, but as she has not yet consented to move out of the room into any other room in the house, I can't guess when she will consent to remove into the country. The poor widow behaves with most exemplary resignation; I think her conduct is as proper as can possibly be: her father and mother are not arrived, nor am I certain when they come. I still remain in the desire of coming down on Thursday, if I can do so consistently with my duty. As to turning my back upon my brother the very morning the funeral is over (in his present condition!) I am incapable of it."

"On Tuesday, December 31st," writes the present Earl, "the funeral took place at Cheshunt, according to my father's desire; on the day of his marriage, he had gone to Woodgreen, near that place, and had resided there for several months: it appears that during this period, when attending the church at Cheshunt, he had indicated a spot in the churchyard where he wished to be buried, wherever he should die, to a friend and relative, Mr. William Villiers Surtees, and that, on his death-bed, he reminded him of this, his desire. Lord Eldon was chief mourner."

Lord Eldon to Sir William Scott.

(Not dated, but written soon after the funeral.)

"Dear Sir William,

"Struggling between grief and gratitude, I cannot tell how to thank you. I beseech you, think of nothing but your health. Wherever I look round me I look in vain for comfort. But constant assurances of your health will comfort me, under any circumstances in which I shall be placed. My poor wife is just as when you last saw her. I will endeavour to execute all the duties I have upon me as well as I can, and I trust a just and merciful God will aid and direct me and those whose state must in a degree influence me. Affection of all to all.

"Yours, while on earth,

"ELDON.

"They found this morning a paper dated February 1805, in these words, 'I *particularly much* wish to be deposited in Cheshunt churchyard, Herts, and a blue box with me. J. S.'

"Thank God, brother, this was all done; but oh! mark the *date.*

"Yours everlastingly, here and hereafter,

"ELDON."

The epitaph of Mr. Scott, was composed by his uncle, Sir William. It is as follows:—

"To the memory of the Honourable John Scott,
(Eldest son of John Baron Eldon,)
Who at the age of thirty-one years was removed by death
From the hopes and affections of his family and friends,
To all of whom he was eminently endeared,
By the purity of his moral and religious principles,
By the integrity of his publick conduct,
By the graces of a highly cultivated understanding,
And
By a peculiar sweetness of disposition and manners,
This last painful testimony of regard is dedicated
By his disconsolate Father
And
By his afflicted Widow,
(Henrietta Elizabeth, daughter of Sir Matthew White Ridley, Baronet,)
With whom he had been happily united for the space of little more than one year,
And
By whom he has left an only Son,
Born about three weeks before his own decease,
Which took place on the 24th of December 1805."

The abilities of Mr. Scott, naturally good, had been well cultivated, and were guided by a sound judgment, a correct taste, and a regard for the feelings of others. He was sensitive, and among strangers, a

little shy; and these tendencies, concurring with, and perhaps partly arising from, a somewhat delicate constitution, unfitted him for the struggles of busy life.* At one time he was desirous of some permanent occupation; but to this wish his father's answer, kindly and considerately given, was only, "John, there must be some idle men in the world." To his father, mother, and wife, he was devotedly affectionate; and in the little circle of his friends he had an open and cordial demeanour, with an easy, gentle address. His religious principles, being sound, deep, and practical, begot in him a strict and pure morality, and a cheerfulness often playful. He was prepossessing in his appearance, the want of personal height being more than compensated by a well-proportioned form, an intelligent eye, and a benevolent expression of countenance.

The illness under which Mr. Pitt was sinking, did not prevent the expression of his sympathy:—

Mr. Pitt to Sir William Scott.

"My dear Sir, "Bath, Dec. 27th, 1805.

"It is with great regret I break in upon you in the moment of a calamity in which you so nearly participate; but I feel too deeply for the loss which the Chancellor and all his family have sustained, not to be anxious to inquire how he and they support themselves under this heavy affliction. I know how vain every topic of consolation must be in the first impression of so much just sorrow, but I trust he will gradually find the relief, which even the sympathy and affection of his friends cannot administer, in the resignation and fortitude of his own mind. You will, I am sure, pardon my giving you

* He served, however, in two Parliaments, succeeding his father as member for Boroughbridge, which he represented until his death.

this trouble, and will oblige me much by any account you can give me. I much wish he may be induced to try for a time the benefit of change of scene, and of a place of quiet.

"Believe me, my dear Sir,

"With great truth and regard,

"Most faithfully and sincerely yours,

"W. PITT."

Mr. Wilberforce to Lord Eldon.

"Rothley Temple, near Leicester, Dec. 30th, 1805.

"I hope I am not taking an improper liberty in breaking in upon your Lordship for one moment, for the purpose of assuring you how sincerely I sympathise with your Lordship on the melancholy and unexpected event (if in such an uncertain world anything can be unexpected) of which I have very recently heard. Being myself a father, and knowing the warmth of your Lordship's domestic feelings, I am aware how deeply you must suffer. May that Almighty Being, who has inflicted the stroke, support your Lordship under it!

"Excuse this testimony of regard from one who will ever take an interest in what concerns you; and believe me to be, with real respect and attachment,

"Your Lordship's obliged and faithful Servant,

"W. WILBERFORCE.

"P. S. Of course I expect no answer."

Sir Herbert Taylor to Sir William Scott.

"Sir, "Windsor Castle, Dec. 31st, 1805.

"I have had the honour of submitting to the King your letter of yesterday, conveying, by desire of the Chancellor, for his Majesty's information, the melancholy intelligence of the severe affliction with which he has been visited in the death of his eldest son; and I have been honoured with his Majesty's commands, to request you will have the goodness to assure the Chancellor that it was not without feelings of very deep concern and regret that the King learnt this distressing event, and that he sincerely participates in the Chancellor's feelings upon the melancholy occasion.

"His Majesty commands me to add, that he had, when

first apprised of it, intended writing himself to the Chancellor, and that he had solely been withheld, from the impression that it would be more kind towards him not to disturb him in the first moments of his just grief; that he would have been very sorry if the Chancellor had distressed his feelings under the immediate pressure of so severe a calamity, by personally making this communication; and that his Majesty is truly sensible of his attention in requesting you to convey it to him.

"I have the honour to be,

"with great regard,

"Sir,

"Your most obedient and very humble Servant,

"H. TAYLOR."

"The Right Hon. Sir William Scott, &c. &c."

Lord Ellenborough to Lord Chancellor Eldon.

"My dear Lord,

"I have not allowed myself to intrude upon the earlier and most sacred moments of your affliction by a single line of vain condolence. It would have been, in my judgment, to have trifled with grief such as yours, and to underrate the severity of such a loss as you have sustained, to conceive them capable of mitigation by the language and topics usually applied to soothe lesser sorrows. I offer you none of them; they do not apply to a case like yours. I have waited with anxiety for that moment when the irresistible demands of public and private duty might force you back upon the business of the world, and withdraw your mind from an incessant contemplation of one most melancholy and painful subject, and which no mind, be its general firmness what it may, can so dwell upon with impunity. I hope, my dear Lord, I am not deceived in thinking that I see, through all the sadness of your most affecting letter, a fixed determination to address yourself to the discharge of the many and important duties which surround you, with all the composure and firmness which a satisfactory discharge of those duties requires. Your strength of mind will grow with the use of it: and you will soon, from amended spirits and increased firmness, be able to lend comfort and support to those deeply suffering relatives, partners in the same common calamity, to whom

you would most anxiously be disposed to afford it. God bless you, my dear friend, and may His merciful providence speedily enable you to sustain, unbroken, the heavy load of affliction which, for wise but inscrutable purposes, it has cast upon you, and make (if it be possible) this apparent evil the means of greater good to you, both here and hereafter, is the sincere prayer of your truly sympathising and sincerely affectionate friend,

"ELLENBOROUGH."

"Bloomsbury Square, Jan. 16. 1806."

The Session of Parliament opened on the 21st of January; and on the 23d, Mr. Pitt, who had returned a few days before from Bath to his own house at Putney, breathed his last.

The loss of such a man, in such a state of public affairs, appeared irreparable. Except his father, no Minister of that already long reign had occupied so large a space in the sight of the nation. He had come, in very early life, to the aid of the Sovereign, at a crisis when no other champion could be found to make head against a coalition, as powerful in Parliament as it was odious both to King and people; and the lofty vigour of that rescue fixed him in the confidence of the Country, as well as of the Court. With the same energy and elevation of spirit, he bore the State through the trying emergencies of the Regency and of the revolutionary propagandism; and the lucid majesty and volume of his eloquence,—a far more potential influence in his day than in ours,—threw around him a glory, which, as all the efforts of his great contemporaries could not eclipse it, so the long lapse of succeeding years has been unable to quench or to cloud.

On the 24th of January, a motion was to have

been made in the Upper House by Lord Hawkesbury who conducted the business of Government there, for a vote of thanks to Lord Collingwood and the naval force which, under his command, had secured the fruits of Lord Nelson's victory at Trafalgar; but, on the day appointed, a postponement of the motion was requested by Lord Walsingham on behalf of Lord Hawkesbury. The Duke of Norfolk, a zealous opponent of Mr. Pitt's Government, said he saw no possible reason for the delay, and wished that some ground should be assigned for it. The Lord Chancellor answered him in a few words, conveying an assurance that Lord Hawkesbury would be able to assign adequate reasons. The motion was then postponed.

Lord Hawkesbury had been, himself, invited by the King to succeed Mr. Pitt, but, after due consideration of the difficulties surrounding him, had declined to undertake so grave a responsibility. Thus the King, compelled by the state of parties to entrust Lord Grenville with the formation of a Ministry, had now no alternative but to accept Mr. Fox as one of its leading members; and his Majesty is understood to have submitted to the unwelcome necessity with the best possible grace. Lord Grenville became First Lord of the Treasury, and Mr. Fox, Secretary of State for Foreign Affairs; Lord Erskine, Lord Chancellor; Lord Fitz-William, President of the Council; Lord Sidmouth, Lord Privy Seal; Lord Moira, Master General of the Ordnance; Mr. Grey, First Lord of the Admiralty; Lord Spencer, Home Secretary; Mr. Windham, Secretary for War and Colonies; and Lord Henry Petty, Chancellor of the Exchequer;

while Lord Ellenborough took a seat in the Cabinet, though continuing to fill the Office of Lord Chief Justice of the King's Bench. Such was the composition of the showy Cabinet, designated boastfully among its friends, and derisively among it foes, by the appellation of All the Talents.

Each change of Administration since 1801, had been unpleasing to the King; but upon further acquaintance, his prejudice against Mr. Fox became much abated. Some time after the dissolution of the Whig Ministry, the King said it was but just to acknowledge, that Mr. Fox, though certainly forced upon him, had never presumed upon that circumstance to treat his Sovereign like a person in his power, but had always conducted himself frankly and yet respectfully, as it became a subject to behave. "His manner," the King was wont to say, "contrasted remarkably with that of another of the "Whig Ministers, who, when he came into office, "walked up to me in the way I should have expected "from Buonaparte after the battle of Austerlitz."

Lord Eldon, on the 3d of February, announced that he should take leave of the Court of Chancery on the following day; and on the 4th, in rising to quit the chair which he had occupied with so great a reputation, he made the following address to the Bar:—

"Before I take leave of this Court, I wish to address a few words to you, Gentlemen, expressive of the feelings I entertain for the respectful attention I have on all occasions experienced from you. I had doubted whether the more dignified manner of parting would not be simply to make my bow to you, and retire; but observing that I have been re-

presented, yesterday and the day before, to have addressed you on the subject, I shall not resist the impulse I feel to say a few words. I quit the Office I hold without one painful reflection. Called to it by authority of those whom it was my duty to obey, I have executed it, not well, but to the extent of my humble abilities, and the time which I have been able to devote to it; and I enjoy the grateful feeling that there is no suitor of this Court who can say I have not executed it conscientiously. There is yet, however, one painful emotion by which I am assailed — it is the taking leave of you. In retiring into private life, I am upheld by the hope that I shall carry with me the continued esteem of a profession, for which I feel an attachment that will descend with me to the grave. For the great attention, respect, and kindness I have always received from you, accept, gentlemen, my sincerest thanks, accompanied by my best wishes for your long-continued health and happiness, and uninterrupted prosperity."

Mr. Piggott, the new Attorney-General, made a short but feeling answer in the name of the Bar.

On this occasion Lord Eldon writes to his daughter as follows:—

"Dear Bessy,

"I took my leave of the Court of Chancery this morning: I don't mean to go to the Woolsack in the House of Lords to-morrow, or any more. I am to resign the Seal at two o'clock on Friday." . . . . . "I cannot describe my own situation in point of health and feeling otherwise than as excellent, as that, which a man has a right to possess, who, having done his duty to God, his King, and to every individual upon earth, according to the best of his judgment, has a right to support himself under heavy afflictions by the consciousness of proud and dignified integrity."

It remained that he should wait upon the Sovereign, for the purpose of delivering up the Great Seal. His account of that audience, which took place on

Friday the 7th of February, is thus preserved by Mrs. Forster:—

"The King appeared for a few minutes to occupy himself with other things; looking up suddenly, he exclaimed, 'Lay them down on the sofa, for I *cannot*, and I *will not* take them from you!' In the Anecdote Book, Lord Eldon records the same circumstance, with this further observation of the King: 'Yet I admit you can't stay when all the rest have run away.' When in 1807 I returned into Office, he gave me the Seal again in the same kind manner; and he again observed, 'I could not expect you to stay when the others ran away.'"

On the resignation of the Great Seal, Lord Eldon became entitled to a pension of 4000*l.* a year, granted to him by Royal Letters Patent of 24th of April 1801, in pursuance of the powers given to his Majesty by the act of 39 Geo. 3. c. 110. This pension, by the form of its limitation, ceased on his resumption of the Seals, and revived on his second retirement. He enjoyed it therefore from the 7th of February 1806, to the 31st of March 1807; and from the 30th of April 1827, till his death. On the accession of the Reform Ministry, who abolished some of the patronage of the Great Seal, the retiring pension for Chancellors was raised from 4000*l.* a year to 5000*l.*, but as the provision was not retrospective, Lord Eldon did not benefit by it.

There have been found eleven MS. books in Lord Eldon's handwriting, which contain notes made by him on the Bench. Several of them have [illegible] leaf, the words, "Thou shalt do no unri[illegible]

in judgment*:" as if he were desirous to keep himself perpetually in mind of his first duty. The book dated "December 1805—December 1807" has, on its last leaf, the following memorandum, concluding with some lines from a chorus in one of the tragedies ascribed to Seneca†:—

"On Friday, 7th February 1806, I resigned the Great Seal to his Majesty at the Queen's House. When I took the office of Chief Justice of the Common Pleas, his Majesty required from me a promise that I would not refuse the Great Seal, when he should call upon me to take it. When his Majesty took the Seal from my hands, his Majesty's demeanour and assurances were in all respects satisfactory to me."

"Stet, quicunque volet, potens
Aulæ culmine lubrico:
Me dulcis saturet quies.
Obscuro positus loco,
Leni perfruar otio.
Nullis nota Quiritibus
Ætas per tacitum fluat:
Sic, cum transierint mei
Nullo cum strepitu dies,
Plebeius moriar senex.
Illi mors gravis incubat

* "[illegible] no unrighteousness in judgment."—Leviticus, xix.

† [illegible] line 391. Act II.

Qui, notus nimis omnibus
Ignotus moritur sibi."*

* NOTE BY THE PRESENT EARL. — To do justice in the English language to this passage is hardly possible; the following translation, however, is almost literal;—

Let him, who shall desire it, stand in power
On the slippery height of the mansion:
Me let sweet quiet satisfy.
Placed in an obscure situation
May I fully enjoy mild leisure.
Noted by none of the Romans
Through silence may my age flow on;
Thus, when my days shall have passed
Without noise,
May I die a plebeian old man.
On him death presses heavily
Who, too well known to the world,
Dies to himself unknown.

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